

Review finds Virginia elections agency had culture of 'open support for one party over the other'

- By GRAHAM MOOMAW Richmond Times-Dispatch
- Sep 10, 2018



“I voted,” stickers are given to voters at Main Branch — Richmond Public Library polling place in Richmond on Tuesday, November 8, 2016.

A legislative review of Virginia’s Department of Elections has found that the agency had an “environment of open support for one party over the other” under leadership appointed by then-Gov. Terry McAuliffe, a Democrat.

Staff from the General Assembly’s Joint Legislative Audit and Review Commission presented their findings Monday in a [75-page report](#) that pointed to the perception of political bias and a faulty IT system as two key issues state lawmakers may want to address.

Jamie Bitz, a chief legislative analyst for JLARC, said interviews with local voter registrars and state elections staffers showed there was “a perception of political bias that was reflected in decisions about certain policies and certain agency operations.”

In an interview after the meeting, Bitz said JLARC was told that former agency leaders directed staff to help Democratic groups avoid campaign finance laws and rules that require political groups to put their names on ads.

“We heard of one example where the previous deputy commissioner at the agency very openly stated to a number of people, including to one high-level elections

official in Virginia, that one of her key responsibilities was to help Hillary Clinton be elected president,” Bitz said.

Bitz said JLARC found no evidence that agency staff tried to tilt any election results, but Republicans seized on the finding as confirming their suspicions about how the Elections Department was run during the McAuliffe era.

House of Delegates Speaker Kirk Cox, R-Colonial Heights, called the appearance of political bias “devastating.”

“If there’s any group that has to have integrity, if there’s any group that has to be nonbiased, it’s got to be this group,” Cox said.

Under state law, the elections commissioner and two other high-level positions in the agency are filled by the governor, a system JLARC said makes the agency susceptible to political influence and leadership turnover every four years.

Del. Steve Landes, R-Augusta, said politics within the Elections Department may not be an entirely new phenomenon.

“It’s probably happened on both sides of the aisle depending on who the governor was,” Landes said.

In its report, JLARC said the General Assembly could consider eliminating the two other appointed positions — a chief deputy commissioner and confidential policy adviser — and create a new director of operations position that would not be subject to the whims of the governor’s office.

Though Gov. Ralph Northam retained several administration officials McAuliffe hired, Northam did not reappoint Elections Commissioner Edgardo Cortés.

In January, Northam appointed Chris Piper, a former executive director of the Virginia Conflict of Interest and Ethics Advisory Council and deputy director of the Virginia Tobacco Region Revitalization Commission, to run the agency, which oversees elections in conjunction with local voter registrars.

The review found agency leadership has improved since Piper took over. When lawmakers asked about the allegation of past political bias, Piper said agency culture flows from the top.

“If the staff sees the leadership acting in a nonpartisan manner and doing the job that’s required of us to ensure a fair, accurate and uniform election, then they tend to follow that and believe in that,” Piper said.

In an email, Cortés said he was proud of what the agency accomplished under his tenure, saying the department made it “easier for eligible Virginians to participate in our democracy,” equipped local election officials and had “a great working relationship with both state political parties.”

“I’m glad to see that JLARC has confirmed the need for additional resources and legislative changes to allow the department to fulfill its expansive mission to promote and support accurate, fair, open and secure elections for the citizens of the commonwealth,” Cortés said.

Cortés led the agency during McAuliffe’s executive action to restore voting rights to more than 200,000 people with felony convictions, a move McAuliffe said rectified a lifetime disenfranchisement policy that had a disproportionate impact on African-Americans.

The JLARC report suggested several other actions lawmakers could take to address recent election-related problems.

The information system state and local officials use to maintain the list of Virginia’s 5.5 million registered voters is “not sufficiently functional or reliable,” the report found, confirming registrars’ long-standing complaints about system slowdowns and crashes. The VERIS system crashed in October 2016 right before the deadline to register to vote in the presidential election, which led a federal court to order Virginia to reopen voter registration.

The General Assembly has already dedicated \$2 million to rebuilding the VERIS system, but the JLARC report said the state may want to revisit that decision or explore the possibility of a full system replacement.

Despite the technology issues, the state’s voter rolls are “mostly accurate,” the JLARC report said. Even though there have been some examples of voter fraud, JLARC staff said they found no “verifiable evidence” of widespread voter fraud.

“Because the vast majority of elections in Virginia are won by relatively large margins of victory, for most races there would have to be a substantial number of instances of single-ballot voter fraud to result in the wrong person being elected to office,” the report says.

Last year, election officials discovered that hundreds of voters had been assigned to the wrong House district in the Fredericksburg area, casting a cloud over a close race there. The JLARC report recommended legislation to require the Elections Department to conduct periodic checks to make sure voters are in the right district and take action to ensure localities and the state agree on local boundary lines.

Piper said the Elections Department will take the JLARC recommendations seriously. In comments to the committee, Piper defended his agency, saying the department admirably fulfills its mission despite the complex environment in which it operates.

“We are a small agency with a huge mandate,” Piper said. “And we take our responsibility for ensuring the sacred right of the vote seriously.”

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