



OCPF Reports

Published quarterly by the Office of Campaign and Political Finance

Commonwealth of Massachusetts

Volume 12, Number 1

Spring/Summer 2007

From the Director On to the cities

Election season is gearing up in cities across the Commonwealth, with elected municipal offices, including mayor, on the fall ballot.

Though we at OCPF provide the reporting forms that local clerks and election officials distributed to these candidates, the vast majority file their campaign finance reports to those local officials. The only exceptions are candidates for mayor and councilor-at-large in the five largest cities — Boston, Cambridge, Lowell, Springfield and Worcester — who report directly to OCPF. Those candidates and their banks file their reports electronically.

While municipal candidates clearly do not account for the majority of the filers with this office, we are fully aware of the importance of their races in each city.

It's also important to remember that the campaign finance law applies to local candidates as much as it does those seeking state or county office. All those running for any elected office, state, county or local, are required to file campaign finance reports. The office to which the reports are filed may vary, as might the

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Legislative candidates spent almost \$12m in 2006

Candidates for the House and Senate spent just under \$11.9 million in their campaigns for the Legislature last year, according to a new study by the Office of Campaign and Political Finance.

The 339 candidates reported receipts of \$12,398,381 and expenditures of \$11,877,068. Neither figure is a record for aggregate fundraising or spending; in fact, both represent a significant drop from the all-time highs of \$17.3 million and \$17.6 million, respectively, posted in 2004 by 390 candidates.

The decrease in activity was also reflected in the breakdown of figures for each chamber in 2006. In the

Senate, 70 candidates reported a total of \$4,612,580 raised and \$4,596,300 spent, down from \$7.6 million in both categories two years before. The 2006 averages were \$65,894 raised and \$65,661 spent — both a drop of about \$28,000 from 2004.

In the House, the 269 candidates raised \$7,785,801 and spent \$7,280,786, which were decreases of \$1.9 million and \$2.7 million, respectively, from 2004. The average amount raised by a House candidate was \$28,943, down almost \$2,500 from 2004, and the average spent was \$27,066, a decrease of about \$5,200.

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How much can you give to all candidates?

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Reporting schedule varies for special House, Senate elections

Recent resignations by some state senators and representatives have led to a series of special elections for vacant seats.

So far in 2007, two senators have announced their departure: Senate President Robert Travaglini, D-Boston, and Jarrett Barrios, D-Cambridge. Travaglini's seat was filled in late June with the election of Rep. Anthony Petrucci, D-Boston.

The special election for Barrios' seat has been scheduled for Oct. 9, with a primary on Sept. 11.

In the House, two representatives, James Leary, D-Worcester, and Robert Coughlin, D-Dedham, resigned to take positions in the administration of Gov. Deval Patrick and Lt. Gov. Timothy Murray. Those seats have since been filled by James O'Day, D-

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Study: Legislative candidates spent \$11.9m in 2006

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A major reason for the decline in total activity was a drop in the number of candidates from 2004, as 51 fewer candidates sought legislative office in 2006. In addition, last year's election saw fewer contested races and more unopposed incumbents, which translated into less spending. The total and average amount spent by challengers dropped significantly from 2004, when several non-incumbents recorded spending much higher than previous averages.

The Senate race with the highest spending in 2006 was in the Berkshire, Hampshire and Franklin District, where seven candidates spent \$413,630 to succeed outgoing Sen. Andrea Nuciforo. The winner, Benjamin Downing, D-Pittsfield, prevailed despite not being the top spender in the race. The highest amount ever spent for a Senate race was the \$809,637 spent in 2002 for the Middlesex, Suffolk and Essex District seat won by Jarrett Barrios, D-Cambridge. (Barrios recently resigned from the Senate.)

The House race featuring the highest spending was in the 3rd Suffolk District, where House Speaker Salvatore DiMasi, D-Boston, and Republican challenger Kenneth Procaccianti spent a total of \$355,113. DiMasi, who was re-elected, accounted for 98 percent of the total spending in the race. The spending total in this race is a new record, surpassing the \$347,148 spent in the 11th Norfolk District in 2002. That four-way race was won by Rep. Robert Coughlin, D-Dedham, who resigned his seat earlier this year.

The top spenders in both chambers in 2006 were also their presiding officers. Senate President Robert Travaglini, D-Boston, spent \$459,871 in his unopposed re-election campaign. The spending reported by Travaglini (who resigned his seat earlier this year) fell short of the record for a Senate candidate, which was the \$474,095 recorded by his successor as president, Therese Murray, D-Plymouth, in a contested race in 2004.

The top spender in the House in 2006 was Speaker DiMasi, with a total

of \$353,202. That figure trails the House record of \$370,641 set by DiMasi's predecessor as speaker, Thomas Finneran, in 2002.

For the most part, the 2006 figures followed the trends established in previous legislative reports: Democrats, who outnumber Republicans in both chambers, once again outspent their GOP counterparts, both in total and on average. Incumbents were more likely to have higher spending than those not holding legislative office, and contested races also saw greater campaign finance activity.

Figures in the study are subject to further amendment by candidates and committees after its compilation. For the most current data, visit OCPF's Electronic Filing System, accessible through OCPF's website at www.mass.gov/ocpf.

The study is online on OCPF's website, at www.mass.gov/ocpf/leg rpt06.pdf. The study and other past studies of campaign finance activity may also be found in the "OCPF Studies" section of the website.

Special elections: Reporting dates for candidates

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West Boylston, and Paul McMurtry, D-Dedham.

As this issue went to publication, a special election had not yet been called to fill the House seat vacated when Petruccelli moves to the Senate in July. An election to fill a vacancy must be called by the applicable chamber.

Candidates in special legislative elections also file campaign finance reports, though the schedule varies slightly from that of regularly scheduled elections.

Special election candidates file reports eight days before both the primary and final elections -- just like those running in regular elections.

The third report for the special election varies from that in the November election, which is filed on Jan. 20. The special election report is filed 30 days after the special election.

Like other legislative candidates, those running in special elections file their reports electronically using

OCPF's online database. The database contains reports from legislative candidates dating back to 2002.

Those reports may be accessed on the OCPF website, at www.mass.gov/ocpf. Click on either the "Electronic Filing" or Campaign Finance Reports" tabs.

Visitors to the website may also find a lineup of scheduled special elections and their applicable campaign finance filing dates.



Recent Cases and Rulings

OCPF audits all campaign finance reports and reviews all complaints alleging violations of the campaign finance law. These audits and reviews may result in enforcement actions or rulings such as public resolution letters, disposition agreements or referral to the Office of the Attorney General for further action.

A public resolution letter may be issued in instances where OCPF found "no reason to believe" a violation occurred; where "no further action" or investigation is warranted; or where a subject "did not comply" with the law but the case is able to be settled in an informal fashion with an educational letter and/or a requirement that some corrective action be taken. A public resolution letter does not necessarily imply any wrongdoing on the part of a subject and does not require agreement by a subject.

A disposition agreement is a voluntary written agreement entered into between the subject of a review and OCPF, in which the subject agrees to take certain specific actions.

OCPF does not comment on any matter under review, nor does the office confirm or deny that it has received a specific complaint. The identity of any complainant is kept confidential. Public resolution letters and disposition agreements are matters of public record once cases are concluded.

Disposition Agreements

• **Representative Robert Spellane, Worcester (3/1/07)** OCPF entered into an agreement with Rep. Spellane for violations of the campaign finance law relating to the personal use of campaign funds, transfers of funds between his committee and personal accounts, and failure to provide full disclosure of campaign finance activity. According to the agreement, Spellane made several undisclosed transfers between his committee and personal accounts in 2004, 2005 and 2006, which he later acknowledged to OCPF were to satisfy personal financial obligations. From December 2005 to August 2006, he withdrew committee funds without making any repayment, and ultimately accumulated a liability of \$32,500 owed to his campaign. To cover the liability to his campaign account that had accrued, Spellane made two payments totaling \$36,000 in personal

funds to his committee in October 2006. As part of the agreement, he also paid \$10,000 in committee funds to the Commonwealth, amended his past campaign finance reports to include the missing or incomplete information and agreed to provide additional disclosure to OCPF through 2009, including bank statements and mid-year paper reports.

• **Lavalier Alves, Wilbraham (3/27/07)**
The agreement with Alves, controller of Berkshire Development LLC of Springfield, stemmed from his role in the delivery of \$5,000 in illegal contributions to the campaign of Springfield Mayor Charles Ryan in 2005. According to the agreement, Alves used funds from the company president's personal account to reimburse eight fellow employees, as well as himself, for \$500 contributions to Ryan. These nine contributions violated the campaign finance law because they were in fact from the president's funds, but were made in the name of others. Because Alves was considered to have bundled the contributions under the campaign finance law, he was also considered to have donated the entire amount delivered, in excess of the individual limit of \$500. In the agreement, Alves agreed to pay \$20,000 to the Commonwealth. The Ryan Committee, which was unaware of the true source of the contributions, purged the funds after learning of OCPF's conclusions.

Public Resolution Letters

• **06-55: Marcos Devers, Lawrence.** Did not comply (Recordkeeping and reporting of campaign finance activity); 2/8/07. Campaign finance reports filed by a candidate's committee did not accurately reflect the committee's activity. The reports contained substantial negative balances and recorded contributions received from several persons as lump sum contributions from the persons who collected the contributions on behalf of the committee. In addition, the committee received thirteen contributions from business corporations and two money order contributions in excess of the \$50 limit. To resolve the matter, the committee paid \$700 and the candidate paid \$500 to the Commonwealth.

• **06-97: Mayor James Ruberto, Pittsfield.** Did not comply (Use of public resources for campaign purposes); 2/13/07. The use of city resources by a mayor to arrange a press conference in his City Hall office for the purpose of endorsing a candidate was an improper use of public resources for a political purpose. The prohibition was not violated, however, by the use of the city's high school for another candidate's rally, which included students and the school band.

• **06-68: Somerville Divestment Project, Somerville.** Did not comply (Disclosure of ballot question expenditures); 2/20/07. A ballot question committee organized to influence an advisory ballot question did not file its Statement of Organization in a timely manner. In addition, an organization that made expenditures to influence the question did not file the Form 22 disclosure form in a timely manner. Also, a public employee, who was an officer of the committee, solicited contributions in violation of Section 13.

• **06-79: Councilor Felix Arroyo, Boston.** Did not comply (Recordkeeping and reporting). 3/5/07. Candidate received five money order contributions of \$500 each, which were disgorged by payment to the Commonwealth. In addition, the candidate's disclosure reports lacked required contributor information and did not disclose specific purpose of approximately \$3,000 in expenditures. The reports were amended after OCPF initiated its review.

• **07-19: Representative John Rogers, Norwood.** No further action (Recordkeeping and reporting); 3/28/07. Errors in the committee's recordkeeping process resulted in balance discrepancies and reporting inaccuracies, including the underreporting of expenditures in 2004 and 2005. The committee notified OCPF of the problem and hired a financial analyst to reconcile its reports with its bank statements. Working with OCPF staff, the committee filed amendments to disclose its activity accurately.

• **06-76: Daniel Grabauskas, Ipswich, and Reed Hillman, Sturbridge.** Did not comply (Public employee fundraising restrictions); 3/30/07. A fundraising letter

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Recent cases

From Page 3

on behalf of Hillman’s candidacy for lieutenant governor included a reference to a public employee, Grabauskas, with Grabauskas’s knowledge. After OCPF brought the matter to the Hillman committee’s attention, the committee refunded or returned all contributions received as a result of the letter. The committee agreed to dissolve and dispose of remaining funds in accordance with the residual funds clause.

- **07-12: John Prindiville, Stoneham.** Did not comply (Recordkeeping and reporting); 4/9/07. Candidate failed to maintain required records of campaign finance activity in 2004 and 2005. The committee was unable to provide OCPF with complete records of expenditures and cancelled checks to resolve issues raised during OCPF’s examination of the committee’s campaign finance reports.
- **07-09: Robert Beal, Boston.** Did not comply (Excess contributions) 4/10/07. An individual contributed \$26,775 to state, county and local candidates in 2005 and \$28,675 to such candidates in 2006, in excess of the \$12,500 aggregate annual limit on such contributions. In a memorandum of understanding with OCPF, Beal

agreed to limit his contributions to candidates during 2008, 2009 and 2010 to \$5,000 in each of those years, and to limit contributions in 2011 to \$4,550. The reduced contribution limits reflect the excess amount of contributions for 2005 and 2006. Beal also agreed to pay a \$1,000 civil forfeiture to the Commonwealth.

- **07-15: Mayor William Phelan, Quincy.** No reason to believe (Use of public resources for campaign purposes) 4/12/07. The distribution of a city-funded newsletter, which included a picture of the mayor and information concerning various city projects and issues, did not constitute an improper use of city resources to further the mayor’s re-election. The campaign finance law does not prohibit the use of public resources to distribute mailings to constituents, as long as they do not contain campaign material or endorsements of candidacies.
- **07-18: Worcester County Republican Women’s Club PAC, Holden, and William McCarthy, Worcester.** Did not comply (Public employee fundraising restrictions) 5/1/07. A professor at a community college was referenced in a flyer as the master of ceremonies for a fundraising event held by the PAC and the Federation of Republican Women’s Clubs. The professor’s serving as a draw for a fundraising event benefiting a PAC did

not comply with Section 13. After OCPF contacted the PAC, the committee dissolved, and none of the funds raised were used to support the nomination or election of candidates.

- **07-02: Marshfield Public Schools.** Did not comply (Use of public resources to distribute information to voters) 5/1/07. The use of public resources to produce and distribute to students a newsletter supporting an override did not comply with the campaign finance law. The superintendent, who had originally contacted OCPF after authorizing the distribution, paid restitution to the town in the amount of \$168 and filed a Form CPF 22A with the town clerk disclosing the expenditure of public funds.
- **07-10: Philip Paleologos, New Bedford.** Did not comply (Excess contributions) 5/08/07. A candidate received office space from an individual. The candidate initially reported an in-kind contribution of only \$450, though the value of the space used was approximately \$1,500. After OCPF contacted Paleologos, the committee made a payment of \$1,050 to the contributor and also amended its campaign finance report to accurately reflect the receipt of the in-kind contribution.

Advisory Opinions

OCPF issues written advisory opinions on prospective activities. Each opinion summarized below also notes the OCPF file number and the requesting party. Copies of all opinions are available from OCPF and online at www.mass.gov/ocpf.

- **AO-07-02:** Money given to a state political party committee for the purpose of paying for a new building for the committee would be a “contribution” subject to the campaign finance law. Contributions are subject to limits, prohibitions and disclosure requirements under the campaign finance law. (Ferro).
- **AO-07-03:** A school department may use its automated phone system to advise

parents of the date of an election and also to encourage them to vote. Extreme care should be taken to avoid any comment regarding the merits of a ballot question or any appearance of advocacy, including asking parents to vote a particular way. (Randolph Public Schools).

- **AO-07-04:** This opinion deals with the circumstances under which a person who performs a service for a municipality may be considered a contractor instead of a public employee. In this case, a recording secretary who takes the minutes for a town’s finance committee and prepares them at home using her own computer, receives no employment benefits, receives IRS Form 1099 rather than a W2, does not receive supplies or administrative facilities from the town, and is not subject to supervision by municipal officials is not “employed for compensation” by the town for the purposes of the campaign finance

law and is therefore not subject to the statutory prohibition on political fundraising by public employees. (Gibalerio)

- **AO-07-05:** This opinion sets forth the manner in which an association that receives funds from business corporations may support a PAC by soliciting contributions from existing and new members using the association’s website. The association must be reimbursed for all of the costs incurred in processing the contributions as well as the cost for initially designing the portion of the website which solicits contributions for the PAC. In addition, the PAC and the association must comply with the campaign finance law’s recordkeeping and reporting requirements. (Massachusetts Motorcycle Association)

FYI: Total personal contributions are limited yearly

When you think of limits on contributions to candidates in Massachusetts, one specific number may come to mind: five hundred.

The maximum amount an individual may give to a candidate for any state, county or local office is \$500 per calendar year.

(The only exceptions to this limit are lobbyists, who are limited to \$200 per candidate, and minors, whose total contributions to all candidates may not exceed \$25.)

In addition to that \$500 limit, however, there is another ceiling to remember: \$12,500.

That's the maximum in total contributions a person may make to *all* candidates in a calendar year.

Section 7A of M.G.L Chapter 55, the campaign finance law, sets that limit on an individual's contributions to any candidate, including that candidate's campaign committee.

Federal law also restricts total individual contributions to candidates for president, the U.S. Senate and the U.S. House of Representatives. That

ceiling, however, runs over a two-year election cycle and is now \$42,700.

Contact the Federal Election Commission in Washington for more information; the commission's website is www.fec.gov.

Because federal candidates do not fall under the Massachusetts campaign finance law, contributions to them do not count toward the \$12,500 cap.

However, the state's cap includes contributions to all Massachusetts candidates on the state, county and local levels. Therefore, an individual's contributions to candidates for selectman and School Committee would count toward the limit along with those given to candidates for governor and the state Legislature.

Candidates and committees sometimes ask OCPF how they can ensure that their contributors do not exceed the \$12,500 annual limit. Given that candidates are not aware of all of their contributors' other donations, the candidates are not expected to be responsible for making sure their contributors follow this section of the law. It is up

to an individual to be aware of and to comply with the personal limitation.

The \$12,500 cap applies to contributions to candidates only. There is no aggregate limit on what an individual may give to political action committees or ballot question committees.

While there is a \$5,000 annual limit on individual contributions to any political party, there is no aggregate limit on total contributions to all parties. The limited number of registered parties, however, serves as a de facto limit on aggregate contributions. There are currently four registered state parties: Democratic, Republican, Green/Rainbow and the newly organized Working Families Party. Four times the \$5,000 annual limit per party means a \$20,000 annual cap on an individual's total contributions to parties.

For more information on contribution limits, visit the Legal Guidance OCPF online at www.mass.gov/ocpf. That section contains a chart of contribution limits to various candidates and political committees.

Updated committee lists available

Up to date lists of all candidates and committees on file with OCPF are now available from the office.

The lists have been updated to include all active candidates and committees through June.

Three lists are available: registered candidates; political action committees, including people's committees, and state ballot question committees.

The lists are available in PDF format from the OCPF website at www.mass.gov/ocpf.

Click on "Candidates and Committees," then go to the bottom of the page to "Printed Lists." Links to all

three types of lists are available.

While the printed candidate and committee lists are updated occasionally, the website also contains an online database that is updated daily. It may be found in the "Online Database" section of the same candidates and committees page.

Also on the page is a link that leads to a list of the candidates and committees that have most recently registered with OCPF.

That list is continually updated, making it the most reliable tool for tracking new candidates and committees .

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A reminder: Filing deadlines for city elections

Hundreds of candidates are now making plans to run for mayor, city council, school committee or other elected offices in more than 40 cities across the Commonwealth.

All candidates are required to file campaign finance reports, most with their city clerk or local election commission.

City candidates file reports in one of two ways, depending on the office they are seeking.

In the state's five most populous cities – Boston, Springfield, Worcester, Lowell and Cambridge -- citywide candidates (mayor, councilor-at-large but not school committee) file reports

electronically with OCPF, in conjunction with their banks. The reports are filed monthly, with their frequency increasing to twice per month in the last month months of an election year.

The e-filed reports from those candidates may be found on OCPF's Electronic Filing System database, which can be accessed through www.mass.gov/ocpf.

Candidates for ward or district councilor, school committee and any other elected municipal offices in these five communities, as well as all candidates in all other cities, file directly with their local election officials.

Their reports are submitted on pa-

per only; they are not e-filed.

Reports for the local filers are due eight days before each election. If there is a preliminary election anywhere in the city, all candidates must file, even those whose races are not on the ballot until November. The third, year-end report for this election is due on Tuesday, Jan. 22.

Municipal reporting forms are available from local election offices or from OCPF.

Municipal forms may be downloaded from OCPF's website at www.mass.gov/ocpf. Click on the "Reporting Forms" tab at the top of the home page.

From the Director

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means of filing (electronically with OCPF vs. on paper with the local clerk), but other things are the same for all, such as the contribution limit and the penalties for not filing.

Unlike some other states, Massachusetts does not have individual contribution limits that vary according to the office sought. In those states, for example, a contributor could give much more to a candidate for governor than to one running for local office. In Massachusetts, however, the \$500 annual contribution limit applies to all candidates, from governor to selectman to school committee.

Any candidate who does not file a report is subject to a civil fine of \$10 per day, with a maximum penalty of \$2,500 per report. At OCPF, the fine is automatic; on the local level it is assessed after a candidate is referred to us by the local election official. In either

setting, it is essential that candidates file on time.

Whether they e-file or not, all candidates are encouraged to use OCPF's free recordkeeping software to keep track of their activity. The software may be downloaded from our website, www.mass.gov/ocpf. Click on the "Electronic Filing" tab.

OCPF staff have scheduled filing seminars in the five cities whose candidates report to us. The seminars address the e-filing process, as well as other compliance issues.

Seminars in other cities are also being scheduled. Candidates should check with their local election officials or OCPF to see if their city is scheduled for a seminar.

As always, local candidates with any questions about filing or any other aspect of the campaign finance law are encouraged to contact us or their local election official.

Mike Sullivan
Director



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