



OCPF Reports

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From the Director

Electronic filing

One of the less publicized requirements of the new Clean Elections law is that statewide, legislative and Governor's Council candidates file their campaign finance disclosure reports electronically with OCPF. This requirement, scheduled to be implemented in 2002, will mean that these candidates will submit reports via the Internet, and OCPF will post the information on its website.

Currently, the office is working with our contractor, SAIC, to assist us in implementing this mandate. I expect that we will finish the initial phase of the planning by July 1, and then we will move into the more difficult phase of testing. As a backup, until we are certain that electronic filing will be successful, candidates will continue to file paper copies of their reports with OCPF.

Other candidates and committees such as PACs and ballot question committees, will also file reports electronically beginning in 2004. Until then, they will continue to file their reports by paper.

We also continue to review draft regulations to assist in implementing the new law and expect to hold an informal public meeting to solicit comment from interested parties this summer. We will then make any necessary changes and hold another hearing prior to adoption of the regulations.

As those of you who have followed the saga of the Clean Elections law understand, this is a very complex statute and we are moving with utmost care to ensure a smooth implementation for all involved. I look forward to working with all interested parties to accomplish that objective.

Mike Sullivan
Director

OCPF software is ready for use by committees

The final testing is complete. The new version of *Campaign Finance Reporter*, OCPF's reporting and recordkeeping software, is ready for use.

Reporter 2.0 has been mailed to candidates and committees who ordered it in recent months. Those who already use the previous version were sent notification of the availability of the new software.

The new *Reporter* comes in two versions. Both are available at no charge.

Version 2.0a, the basic model, may be downloaded from OCPF's web site at www.state.ma.us. Version 2.0b is available by mail on CD only and allows users to carry over data saved on the earlier version of *Reporter*.

Reporter keeps track of all transactions, including receipts, expenditures, in-kind contributions and liabilities. Users may print out a report that is suitable for filing with OCPF or local officials simply by entering the appropriate dates.

The software does not allow for

electronic filing of reports. OCPF is working on an electronic filing program for use by candidates and committees in the 2002 election.

The new electronic filing system will be based on *Reporter*, so all candidates and committees are advised to pick up the new software and become familiar with it.

Reporter 2.0 may be used by candidates and committees in the non-depository system, which includes candidates for the state Legislature and most municipal offices, as well as political action committees, people's committees, local party committees and state and local ballot question committees. A depository committee may opt to use *Reporter* for recordkeeping only, but the software does not generate depository reports for filing with OCPF.

Reporter 2.0 is the third update of the software since it was created about five years ago and offers expanded capabilities and features to the user.

Filing deadline, seminars ahead for candidates and committees

Another state election is coming up, and with it comes a new round of filing dates for candidates and committees.

OCPF is in the process of notifying all candidates on the upcoming ballot of their filing obligations. This includes new candidates, as well as those who already have committees organized with OCPF.

To help with the process, OCPF has once again scheduled a round of seminars for candidates and committees throughout the Commonwealth. A complete list of the workshops is on Page 2.

Candidates and committees in the non-

depository system (House, Senate, PACs, people's committees, local party committees) will file three times this election season: eight days before the primary and general elections and on Jan. 22, 2001. Ballot question committees file on Sept. 8, then twice a month through Nov. 20.

Candidates in the depository system, which this year includes candidates for Governor's Council and county office, will have their banks file reports with OCPF twice a month starting July 1 and running through the end of the year.

See Page 2 for the filing schedule.

OCPF schedules nine seminars

Here is the schedule of OCPF's upcoming informational seminars for candidates and committees in the upcoming state election:

Thursday, June 29

Worcester: Room 409, City Hall, 7 p.m.

Thursday, July 6

Fall River: City Council hearing room, One Government Center, 7 p.m.

Northampton: City Council chamber, City Hall, 7 p.m.

Tuesday, July 11

Boston: Conference Room 2, 21st Floor, McCormack Building, One Ashburton Place, 2 p.m.

Peabody: City Council chamber, City Hall, 7 p.m.

Thursday, July 13

Waltham: City Council chamber, City Hall, 7 p.m.

Plymouth: Mayflower Room, Town Hall, 7 p.m.

Monday, July 17

Haverhill: City Council chamber, City Hall, 7 p.m.

Wednesday, July 19

Boston: Gardner Auditorium, State House, 6 p.m.

No advance notice or reservation is necessary for any of the workshops.

Advisories/Guidance

OCPF issues written advisory opinions on prospective activities. Each opinion summarized below also notes the OCPF file number and the requesting party. Copies of any advisory opinion are available from OCPF and online at www.state.ma.us/OCPF. The following advisory opinions were issued from Feb. 16 through May 15, 2000.

■00-03: A federal PAC may not contribute to a Massachusetts candidate committee. The opinion describes briefly the rationale for this prohibition: The prohibition is needed because in its absence there would be no way of knowing if funds used in a Massachusetts campaign were raised in accordance with the contribution source and amount restrictions established by the Massachusetts campaign finance law, which differ from federal law. (Gardiner).

■00-04: A town may provide space in its publicly funded newsletter for statements to be provided by candidates for contested seats. As proposed, the printing of such information would not involve extraordinary or unusual expenditures and would ensure that equal access is provided to all candidates for contested seats. (Town of Shutesbury).

■00-05: An issues advocacy organization that receives some of its funding from business corporations (that are not members) may endorse candidates. The organization may publicize the endorsements in a newsletter to be distributed to members. The newsletter may also be distributed to non-members if the newsletter is regularly published and is not a

special election-related edition, i.e., it does not involve costs in excess of what is normally paid to produce the regularly published newsletter. The newsletter may not be distributed beyond the scope of organization's membership if it is a special edition. Consistent with organization's customary practices, the organization may also issue a press release to publicize the endorsements. The organization's PAC may make independent expenditures. The organization may not, however, operate a candidate school. (Gun Owners' Action League).

■00-06: Public school teachers should not distribute a notice to students regarding the formation of a ballot question committee, which provides a point of contact for the committee. Such activity would be inconsistent with the campaign finance law because it would involve the use of public resources (teachers) for a political purpose. In addition, it could be seen as an indirect solicitation of contributions. (Rusman).

The following memorandum was recently issued:

■ M-89-02 (revised): **Federal and state tax issues for political committees.** This memorandum provides information on how political committees may obtain a federal tax identification number to open a bank account. In addition, the memorandum references the federal and state tax returns that may need to be completed by political

2000 state election filing dates

Non-depository system
(Legislative candidates, PACs, people's committee's & local party committees)

Pre-Primary Report
Report Due: Monday, Sept. 11
Dates covered: Day following the ending date of any previous report through Sept. 1. If this is the first report filed by a candidate, the beginning date is November 4, 1998.

Pre-Election Report
Report Due: Monday, Oct. 30
Dates covered: Sept. 2 - Oct. 20

Year-End Report
Report Due: Monday, Jan. 22, 2001**
Dates covered: Oct. 21 - Dec. 31
** The statutory deadline of Jan. 20 falls on a Saturday.

State ballot question committees

Initial Report
Due Date: Friday, Sept. 8
Dates covered: Day after closing date of any previous report through Sept. 3. If this is the first report filed by a committee, the beginning date is Nov. 4, 1998.

Subsequent Reports
Due Dates: The 5th and 20 day of the months through Monday, Nov. 20
Dates covered: Day after closing date of previous report through the 1st or 15th of the month.

Year-End Report
Due Date: Monday, Jan. 22, 2001
Period covered: Nov. 16 - Dec. 31

Depository System
(County offices and Governor's Council)
Reports filed by banks on the 5th and 20th of each month from July 1 through Dec. 31. Committees file reports summarizing all activity for the year on Jan. 22, 2001.

committees. The memorandum was revised to include the Internal Revenue Service and Massachusetts Department of Revenue Web sites.

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 the office 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, in OCPF's view, the case may be settled in an informal fashion with an educational letter or a requirement that some corrective action be taken. It is important to note that 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

■The Raymond Flynn Committee, Boston (3/24/00)

OCPF, the Committee and John Kilcommons, treasurer of the committee, entered into an agreement concerning a \$1,000 payment to former Boston Mayor Flynn that was improperly made and reported to OCPF.

In October 1999 the committee made a cash advance to Flynn before he left on a trip to New York City. Kilcommons wrote and cashed the check and gave the money to Flynn. In the committee's bank report, the stated purpose of the expenditure was listed as "New York City Irish Dem. Mtg."

After OCPF sent the Committee a letter requesting further disclosure of the expenditure, Kilcommons signed and submitted a disclosure form listing a \$950 payment to a hotel for a two-night stay and \$50 for cab fare. OCPF subsequently requested documentary confirmation of the expenditures. Kilcommons then acknowledged that the money had not been spent as reported and that he had filled out the form based on his own assumptions, without discussing the filing with Flynn. In fact, the \$1,000 was never spent, according to Flynn and

Kilcommons. Flynn returned the cash to Kilcommons, who deposited it into the committee's account.

As part of the agreement, Kilcommons made a payment of \$1,000 to the Commonwealth. The committee and Flynn were not required to make any payment.

Public Resolution Letters

■00-03: **Citizens for Better Government, Oxford.** Did not comply (disclosure of campaign finance activity by ballot question committee); 3/7/00. A group holding itself out as a ballot question committee did not file a statement of organization before spending any funds to oppose the ballot question and did not file timely campaign finance reports. In addition, the committee used the town seal on campaign materials distributed to residents.

■00-08: **Marc Santos, Fairhaven.** Did not comply (disclosure of expenditures and use of political committee credit card); 3/24/00. Committee used a credit card to obtain cash advances. In addition, when making expenditures, the committee did not include the specific purpose of the expenditures on the committee checks.

■00-06: **Concord Public Schools.** Did not comply (use of public resources for political purposes); 3/24/00. Parent-teacher group's notice, urging parents to attend meeting to help parents understand why approving a ballot question would be "important to the preservation of Concord," was distributed by teachers and mailed using the schools' bulk mail permit.

■00-17: **Athol Charter Commission.** No reason to believe (use of public resources for political purposes); 3/29/00. Charter commission could use public resources to distribute its final report to voters.

■00-09: **Donald Collamore, Holyoke.** No further action (disclosure of campaign finance activity); 4/25/00. Upon review, further action was not warranted in connection with a complaint alleging that candidate inaccurately reported a loan from himself of \$6,254.50, and that others actually provided the funds.

■00-16: **Danvers Public Schools.** No further action (use of public resources for political purposes); 4/28/00. Public school administrators distributed a "question and answer" guide relating to proposed renovations of the Danvers Public Schools.

The guide, relating to budgetary issues before town meeting, was generally distributed before town meeting. Also, school administrators could (because equal access was available to both proponents and opponents of a pending ballot question) properly allow a student initiated voter drive and the use of school public address system by a student to promote marching in a parade to support the ballot question. Finally, nothing in the campaign finance law prohibits teachers from wearing "Vote Yes" buttons.

■00-07: **Carpenters Local Union 26 PAC and Carpenters Local Union 111 PAC, Boston.** Did not comply (disclosure of campaign finance activity); 5/4/00. Political action committees did not file a statement of organization before receiving or spending funds and did not file timely campaign finance reports.

■00-23: **Wellesley Public Schools.** Did not comply (use of public resources for political purposes); 5/11/00. School officials used public resources to produce and distribute a letter to influence a ballot question. In this instance the letter stated that "it is critical for the well being of our school system that . . . funds be voted by town meeting and ultimately by the citizens in May." In addition, the letter provided a list of "programs that will not be funded unless an override passes."

■00-30: **Committee to Rebuild Schools, Concord.** No reason to believe (ballot question committees dissolution requirements); 5/11/00. Ballot question committee did not make expenditures, after vote on question which the committee was created to influence, for other purposes.

■00-30: **Rep. Cory Atkins, Concord.** No reason to believe (use of public resources for political purposes); 5/11/00. Legislator who sent a letter to a local newspaper and school committee members supporting override did not violate campaign finance law.

■00-20: **Uxbridge Public Schools.** Did not comply (use of public resources for political purposes); 5/11/00. Teachers distributed flyer to students during the workday. The flyer stated that the upcoming ballot question "is a critical vote for the town" and urged citizens to be aware of a number of "facts," e.g., the proposed growth in enrollments.

Mayoral contenders raised, spent \$3.3 million in 1999 campaigns, according to OCPF study

Candidates for mayor in Massachusetts spent almost \$3.3 million in their 1999 campaigns, according to a study released recently by OCPF.

The 69 finalists on the November ballot in 38 cities reported receipts of \$3,198,736 and expenditures of \$3,284,268. Both figures represented drops of about \$500,000 from 1997.

Comparisons to other years are difficult, due to the turnover of candidates and the fact that not all cities hold mayoral elections every two years. For example, Boston, Newton and Lawrence, cities where mayoral candidates reported substantial fundraising and spending in 1997, did not hold mayoral elections last year.

The median level of fundraising by mayoral candidates in 1999 was \$32,289, while the spending median was \$23,388.

In 1997, the median level of fund-raising

by the 66 mayoral finalists was \$28,157, while the median of spending was \$27,127.

Incumbents and candidates in contested races in 1999 once again showed substantially higher medians than non-incumbents and unopposed candidates, respectively. Winning candidates also showed higher medians than those who lost.

But the highest medians of any individual category were posted by candidates for open mayoral seats, whose fundraising and spending figures were more than twice the overall medians.

The candidate who spent the most money won in 23 of the 30 contested races, or 77 percent of the time.

All but six of the candidates raised less than \$100,000; all but five spent less than that figure.

Candidates spent more than \$100,000 in

each of eleven cities, most of which featured hotly contested races. The contested race with the most spending was in Fall River, where the two candidates spent a total of \$459,705. That figure is \$30,736 more than the top race in 1997, in Newton.

Mayor Edward Lambert of Fall River was both the top fundraiser and the top spender in 1999. Lambert, who won re-election, reported raising \$247,644 and spending \$395,250.

The average spent per vote by a candidate was \$7.44, up 81 cents from 1997. Topping the per-vote spending list at \$36.22 was Mayor Robert Haas of Revere, who was defeated for re-election.

Copies of the study are available from OCPF and are being sent to every city clerk or election commission. The study is also available online at www.state.ma.us/ocpf.

FYI: Political bank accounts and tax liability issues

OCPF often receives questions from new political committees regarding setting up a bank account for committee funds.

The campaign finance law requires that any funds raised by a candidate or political committee, such as contributions from others, be kept separate from personal funds. A bank account is recommended, and often required to comply with the requirement that contributions and expenditures of over \$50 be made by check.

Candidates and committees with questions concerning tax liability or obtaining a federal tax ID number should call the IRS at (800) 829-1040. A second number provided in the past by OCPF, (617) 536-1040, is no longer in use.

Candidates and committees must obtain a tax ID number from the IRS in order to open campaign bank accounts. An individual's social security number should not be used.

Further information, including the SS4 form that candidates and committees must complete to obtain a number, is also available from the agency's web site at www.irs.gov.

For information on state tax issues contact the Department of Revenue at (617) 887-MDOR or (800) 392-6089, or check the department's web site at www.state.ma.us/dor.

Office of Campaign and Political Finance
 John W. McCormack Building
 One Ashburton Place
 Room 411
 Boston, MA 02108