

# OCPF Reports

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Commonwealth of Massachusetts

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From the Director

## Software update

As you will read in this issue, OCPF staff has completed in-house testing of the newest version of our reporting and recordkeeping software, OCPF Reporter, and has made it available to the public for testing.

The software can be downloaded from our web site at [www.state.ma.us/ocpf](http://www.state.ma.us/ocpf). Please e-mail us when you download it so we are aware of the candidates and committees that are testing this version. Two words of caution: first, the software is for non-depository candidates and committees only; depository candidates may not use it. Second, this is our test version, it is not the final product. If all goes well with testing, it will be made available in February or March.

For those candidates and committees using the current version of the software, please be advised that there are no Y2K problems with the software for year-end reports, which have an ending date of December 31, 1999. As long as the ending date is entered correctly by the user, the report will print without a problem. If the user inputs an ending date of January 1, 2000 or later, the software will not print an accurate report. Please use care when inputting your data and completing your report. We'll be glad you did.

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The Clean Elections law has received much publicity recently. As you can read elsewhere on this page, the bottom line is that the law was not changed during the recently concluded legislative session and \$10 million was appropriated to begin

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## House, Senate candidate spending rose in 1998

Spending by candidates for the state Legislature reached almost \$10.7 million in 1998, an increase of 29 percent over the record low of two years before, according to a new study by OCPF.

Receipts showed a similar increase: the \$10.6 million raised was an increase of 22 percent over 1996. Both 1998 totals, however, are less than the record highs of \$12 million in receipts and \$12.3 million in expenditures recorded in 1992.

The study is the fifth and final installment in a series published by OCPF over the past year. Previous studies have addressed campaign finance activity by candidates for the six statewide offices, state ballot question committees and political action committees and public financing of statewide candidates.

The study released in early December

covers activity reported by 397 candidates for the General Court: 71 for the Senate and 296 for the House.

Total figures for each chamber also showed substantial increases, especially in the House. Aggregate receipts by candidates for representative rose 31 percent, while expenditures rose 36 percent over 1996. Total Senate fundraising rose 8 percent from two years before and spending rose 18 percent.

While total figures were up from 1996, the average receipts and expenditures for each chamber showed varying levels of change. The most striking changes were in the House, where the \$22,855 raised by the average candidate was an increase of 24 percent over 1996 and the average spent, \$23,229, was a 28 percent increase.

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## \$10 million goes to Clean Elections

The Legislature has approved a portion of the funds needed for the start of the new Clean Elections program for the 2002 election.

The new state budget, signed into law by Gov. Paul Cellucci in mid-November, included \$10 million for the fund.

OCPF has estimated that operation of Clean Elections for the 2002 election would require approximately \$38 million. An exact estimate is difficult, however, because the actual amount will be based on the number of candidates and how many of them decide to participate in the voluntary program and are certified to receive funds.

OCPF has requested that more money be added to the fund in the next fiscal year,

which starts July 1. The earliest time funds would be disbursed would be the late summer of 2001, when participating statewide candidates could submit applications for funds after raising the minimum number of qualifying contributions from voters.

Candidates for the other three offices covered by the law -- Senate, House and Governor's Council -- would be eligible to receive funds later, in early 2002.

Clean Elections, approved by voters at the November 1998 state election, provides public funds to candidates who agree to observe campaign spending limits set forth in the law.

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Test version of reporting software available

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# Study: Senate, House activity up

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The two averages were the highest ever recorded by House candidates.

The numbers were mixed in the Senate, where the average raised, \$53,656, was a drop of 4 percent from two years before and the average spent, \$53,606, was an increase of 5 percent. The averages were still several thousand dollars lower than the Senate highs recorded in 1994.

As was the case in previous studies, the highest level of activity was reported by incumbents, Democrats and those who won their races. Substantial activity was also reported by candidates for open Senate and House seats, which traditionally draw many contenders. Candidates for those seats posed higher averages than those in races featuring an incumbent.

Fundraising and spending by incumbents varied, depending on whether the candidates were opposed and the level of expenditures not directly related to campaigning, such as constituent services

and transportation.

The study tracks activity by candidates as reported to OCPF. While it reflects many amendments as a result of reviews by OCPF, figures are always subject to change. Those wanting the most current figures concerning a campaign are advised to check the relevant files at OCPF.

The study also includes summary figures for each candidate, including starting and ending balances, receipts and expenditures.

A copy of the General Court study is available from OCPF and is also posted on the agency's web site, [www.state.ma.us/ocpf](http://www.state.ma.us/ocpf). The three previous studies from the 1998 election may also be downloaded.

Disclosure filings by legislative candidates and all other political candidates and committees reporting to OCPF are available for public inspection at the agency's office at Room 411, McCormack Building, One Ashburton Place, Boston.

# Clean Elections: \$10m set aside

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The chief source of income for the fund is expected to be appropriation by the Legislature, though the Fund may also be replenished through a \$1 checkoff on state income tax forms and fines paid by those who do not comply with the Clean Elections law.

In other deliberations on the budget, legislators proposed two changes to Clean Elections, one of which was signed into law.

The provision that was approved makes a slight change to the section concerning the commission that will review the Clean Elections law and make recommendations for changes, if needed, to the Legislature.

The Legislature added to the charge of the commission, calling on it also to review the cost of implementation and ensuring compliance, as well as the priority that would be given to candidates in the event there is not enough money for the program. The Legislature also moved up the starting date for the commission from Feb. 1 to Jan. 15, 2000. A report from the Commission will be due by Oct. 1, 2000.

The second proposed change did not make it into law.

The Legislature had inserted a provision shortening the election cycle for each office. The governor vetoed that change.

The election cycles remain unchanged: a cycle starts 31 days after the last election for the seat and ends 30 days after the election. The cycle for candidates for the six statewide seats started in December 1998, while the cycles for legislative and Governor's Council candidates starts in December 2000. All cycles end in December 2002.

OCPF is putting the finishing touches on a bill that would make various technical changes to portions of the law and expects to file the measure in January. The bill does not make any substantive policy changes, but clarifies certain provisions and simplifies OCPF's administration of the law, including funding and contribution verification procedures.

*For a further explanation of the Clean Elections Law, including the full text, visit OCPF Online at [www.state.ma.us/ocpf](http://www.state.ma.us/ocpf).*

## Year-end filing seminars

OCPF will once again hold two seminars for candidates and committees to help them prepare their year-end disclosure reports. At the sessions, OCPF staff will go over the reporting process and forms and answer any questions.

In addition to the scheduled sessions, agency staff are always available for one-on-one meetings at our Boston office. Just call to set up a meeting to answer questions.

Seminars will be held at the following locations and times:

**Monday, Jan. 10, 6-8 p.m.**  
Gardner Auditorium, State House,  
Boston.

**Thursday, Jan. 13, 2-4 p.m.**  
Conference Room 3, 21st Floor,  
McCormack Building, One Ashburton  
Place, Boston.

## From the Director

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*funding it. The law also calls for a special commission that will meet to study and make recommendations on the program. I am finalizing my eight appointments to the commission, which is scheduled to start its work in January.*

\* \* \*

*OCPF will hold two year-end workshops in Boston this year, on Jan. 10 and 13, to assist candidates and committees in filing their year end reports. In years past, these workshops were held in various locations around the state, but poor attendance has caused me to reevaluate the number of year-end workshops we hold. As always, if you need assistance and cannot attend either workshop, please call or stop by the office and an OCPF staff member will be glad to answer your questions.*

\* \* \*

*Let me close by sending along best wishes for the holiday season from all of us at OCPF. Have a happy New Year!*

**Mike Sullivan**  
Director

## Recent Cases/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.

### Public Resolution Letters

**99-17: Westwood Public Schools.** Did not comply (use of public resources for political purposes); 8/23/99. A public school department distributed a flyer regarding a ballot question. The flyer asked and answered various questions regarding the nature, substance and impact of the ballot question. The town treasurer filed a disclosure report with the town clerk and a ballot question committee voluntarily agreed to reimburse the costs associated with distribution of the flyer.

**99-25: Charles Lyons, Arlington.** Did not comply (receipt of corporate contributions, record keeping and disclosure of campaign finance activity); 8/31/99. A political committee received in-kind

contributions (primarily phone use) from business corporations. The committee agreed to treat the transaction as liabilities to the corporations. In addition, the committee did not keep detailed accounts of all contributions or accurately report the contributions.

**99-34: Concord Middle School.** No further action (use of public resources for political purposes); 9/9/99. A parent group paid for production and mailing of newsletter that referenced ballot question. The school, however, provided the group with mailing labels and the use of a bulk mail permit. The newsletter stated that an affirmative vote "can effect your child's education," and would "have a far-reaching impact on the Carlisle Public Schools." Because the language in the newsletter went beyond telling voters the time, date and place of the election or providing a brief, neutral title of the ballot question, the parent group was advised to reimburse the school for the cost of the labels and a bulk mail permit.

## 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](http://www.state.ma.us/OCPF). The following advisory opinions were issued from Aug. 16 to Nov. 15, 1999.

■**99-15:** A city may provide space on the city's Web site to candidates. Candidates may request a link to the City's Web site or submit information to be included on the Web site on a disk or in printed form. The proposal addressed in this opinion would involve minimal use of public resources and would ensure that equal access is provided to all candidates. The opinion recommended that the city specify that although candidates have the opportunity of either having a link to their Web site or having space provided on the city's Web site, they do not have the opportunity for both. (Toomey).

■**99-16:** A political committee may enter

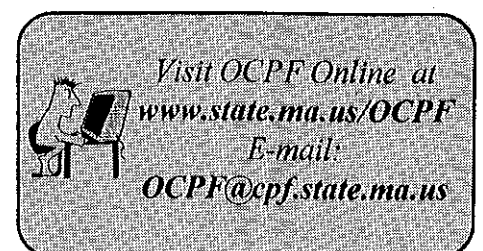
an agreement to lease space from a corporation for use as a political headquarters. Payment for such space must equal the fair market rent of the leased property. Although not required by law, the Committee was advised to execute a written agreement with the corporation. (Ellis).

■**99-17:** A political committee was advised not to have a fundraising event in a municipal building, even if funds would be solicited and received outside the building. Solicitation and receipt may be considered to be part of a process leading up to the event itself. In addition, it would be difficult to ensure that solicitation and receipt would not take place in the building during such an event. (Pierce).

*The following memorandum was recently issued:*

■**M-99-01 (new):** Use of Local Access Cable Television for Political Purposes. OCPF occasionally receives questions concerning the legality of using cable television to cablecast information about

candidates and local ballot questions. Almost all question relating to the political use of cable television are within the jurisdiction of the Cable Television Division of the state Department of Telecommunications and Energy, and the memo refers readers to that agency (telephone: 617-727-6925 or 888-622-2588). The memo also notes, however, that the campaign finance law would prohibit the political use of cable television resources that are owned by a public entity or located in a building occupied for state, county or municipal purposes, unless equal access is provided to all sides.



# Reporting software ready for test

The latest version of OCPF's reporting software for candidates and committees, *OCPF Reporter*, is still in the testing stage and is expected to be released in early 2000. A "beta version" of the software is now available for download and testing on OCPF's web site, [www.state.ma.us/ocpf](http://www.state.ma.us/ocpf).

The final version of the software will be shipped after the test period. Those who have the current version of the software do not need to take any steps to order the new version: it will be shipped to all past buyers as soon as it is ready.

Until the new version is shipped, candidates and committees may use their current version, *Reporter 1.1*, to complete their year-end reports, which are due with

OCPF or local election officials on Jan. 20.

All entries in that report, which runs through Dec. 31, will be from 1999. Transactions entered after Jan. 1, 2000, can still be entered in version 1.1 using the last two digits of the year, "00."

Candidates generating reports that include both 1999 and 2000 transactions would have to print two separate reports. One would run through Dec. 31, 1999, and the other would start on Jan. 1, 2000.

*OCPF Reporter* may be used by all candidates and committees except those in the depository system, which includes statewide and county candidates and committees and mayoral and councilor-at-large candidates in Boston, Lowell, Springfield and Worcester.

## Ask OCPF

**Q.** *I'm a retiring elected official who is being honored at a testimonial dinner. Does my campaign finance report need to disclose any of the receipts or expenditures associated with the event?*

**A.** The amount of disclosure and whether any limitations apply depend on such factors as who is running the event, how the money is raised and whether you still hold office or have a campaign committee account. If the event is being run by a charity or other group, with the organization receiving all contributions and handling all expenses, chances are you have no campaign finance reporting obligation. If, on the other hand, any or all proceeds of any testimonial are going to you, or tickets to the event are purchased through your campaign committee (even if you make a subsequent contribution to the charity), all such receipts are considered campaign contributions and are subject to reporting requirements and contribution limits. You are strongly encouraged to contact OCPF if you have any questions about participation in a testimonial or benefit event.

# OCPF to participate in workshop

Staff from OCPF, the Office of the Secretary of the Commonwealth and the State Ethics Commission and other legal, financial and election experts will be participating in a seminar sponsored by Massachusetts Continuing Legal Education (MCLE).

The seminar will be held on Tuesday, February 15, 2000 from 9 a.m. to 1 p.m. at MCLE's Conference Center at 10 Winter Place (off Winter Street) in Boston.

The session will focus on Massachusetts law and procedures in several related but different fields: campaign finance, election and lobbying law. The seminar is

designed for individuals, elected and appointed officials, candidates and others who are involved in Massachusetts campaigns, elections or state or local government. After an introduction to the key areas to be covered, an opportunity will be provided to participate in small concurrent sessions, covering each of the major areas.

Tuition to the seminar ranges from \$135 to \$155 and includes a text, *Massachusetts Campaign Finance, Election Administration and Lobbying Law*.

For more information, contact MCLE at 617-350-7006 or online at [www.mcle.org](http://www.mcle.org).

*Ask OCPF is a regular feature in which we answer frequently asked questions. Contact OCPF to suggest a question for a future edition.*

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