

State Election Campaign Fund 2017-18 Report



This report outlines the workings of the State Election Campaign Fund and provides specifics on its operation in the 2018 election, including the availability and distribution of funds to participating candidates.

Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

I. Introduction

“On or before January thirtieth of any year next following a year in which elections are held for statewide elective office, the director shall prepare and submit a report relating to the matters entrusted to him under this chapter to the clerk of the senate and to the commission established by section three of chapter fifty-five....” [M.G.L. c.55C, s.3]

To the Clerk of the Senate and the Commission to Select the Director of Campaign Finance:

In accordance with Massachusetts General Laws Chapter 55C, Section 3, I hereby submit this report summarizing the Commonwealth’s system of limited public financing of campaigns for statewide elective office during the 2018 election.

This report outlines the workings of the State Election Campaign Fund and provides specifics on its operation in the 2018 election, including the availability and distribution of funds to participating candidates. More than \$1 million was distributed to two candidates running for statewide office in 2018. The total outlay is about \$28,035 more than the 2014 figure.

The public financing system was effectively implemented in a professional and efficient manner during the 2018 election, due in large part to the coordination between the Office of Campaign and Political Finance (OCPF), the Office of the Secretary of the Commonwealth, the Department of Revenue, the Office of the Comptroller, and the Office of the Treasurer and Receiver General. The work of each of these agencies contributed to the system’s effectiveness and, therefore, each deserves recognition for its efforts.

An extra word of thanks also goes out to the candidates and their political committees, who cooperated with this office by making early submissions of qualifying candidate statements.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael J. Sullivan
Director
Office of Campaign and Political Finance

January 30, 2019

II. Historical Overview

The system for partial public financing of campaigns for statewide office has been in place for every election since 1978, with one exception. That was in 2002, when the Clean Elections program covered candidates for statewide office, as well as those running for the Legislature and the Governor's Council. That system was repealed in 2003 and the previous program, for statewide candidates only, was reinstituted.

The current system potentially offers limited funds to candidates for the six statewide offices: Governor, Lieutenant Governor, Attorney General, Treasurer and Receiver General, Secretary of the Commonwealth and Auditor. The funds are provided from voluntary contributions of \$1 by state income tax filers.

In the 11 statewide elections since its institution, public financing has provided \$12.9 million to candidates, most recently more than \$1 million in 2018.

Disbursements to Candidates from the State Election Campaign Fund 1978-2018 Statewide Elections

<i>Year</i>	<i>Amount Available</i>	<i>Amount Disbursed</i>
1978	\$175,161	\$162,521
1982	\$679,930	\$489,912
1986	\$888,498	\$865,412
1990	\$450,003	\$380,356
1994	\$358,438	\$256,758
1998	\$1,753,463	\$1,719,614
2002	\$4,088,405	\$4,088,405
2006	\$1,613,689	\$1,361,222
2010	\$1,563,839	\$1,419,852
2014	\$1,235,905	\$1,065,704
2018	\$1,210,257	\$1,093,739

Note: Any funds remaining after the election are carried over to the next statewide election.

The largest outlay of public financing was in 2002, when almost \$4.1 million was distributed during the Clean Elections program. That program provided partial funding to 10 candidates. Not counting the Clean Elections funds, the limited public financing program has distributed \$8.8 million to candidates since 1978.

A total of 111 candidates have received public funds since 1978: 101 under the limited financing system, and the other 10 under the Clean Elections program. The number of candidates in each election cycle who received money has varied over the years, depending on such factors as each candidate's particular circumstances and the changing criteria for receiving

funds. The law stipulates, for example, that candidates for governor are eligible to receive full funding before other statewide candidates may receive funds. In addition, starting with the 1998 election, candidates wishing to be eligible for public financing are required to agree to statutory spending limits.

Candidates' Eligibility for and Receipt of Public Funds 1978-2018

	<i>Primary</i>		<i>General</i>		
Year	Eligible for funds*	Received funds	Eligible for funds#	Received funds	Total recipients
1978	22	12	10	8	16
1982	12	12	16	3	13
1986	11	9	10	10	16
1990	17	15	14	8	19
1994	19	10	16	8	14
1998	13	4	7	5	8
2002	12	10	6	6	10
2006	14	2	4	3	3
2010	6	4	8	5	7
2014	12	2	10	2	3
2018	9	2	8	1	2

*Denotes candidates who agreed to observe spending limits, a requirement for receiving public funds that started with the 1998 election.

Candidates who won their primaries or otherwise reached the November ballot, such as unenrolled candidates. Candidates for governor and lieutenant governor run as candidate teams.

III. The State Election Campaign Fund

The sole source of funding for limited public financing in Massachusetts is the State Election Campaign Fund (SECF), which was established under M.G.L. Chapter 10, Section 42. Under Section 42, taxpayers may direct \$1 of their tax liability on their annual income tax returns to the SECF (\$2 for joint returns). Such a designation does not increase a filer's tax liability or decrease the amount of a refund. From 1976 to 1993, however, the funding was by an "add-on" system, by which taxpayers could contribute to the SECF only by adding \$1 or \$2 to their tax liability.

Throughout its history, the SECF has been hindered by limited participation. Before 1994, when designating money to the fund meant an increase in a taxpayer's liability, less than 5 percent of the tax returns included a contribution to the fund. The switch to a check-off in 1994 meant a substantial increase in participation, with the rate of donations moving closer to 10 percent.

State Election Campaign Fund Taxpayer Participation Rates and Amounts Collected

Tax	Participants	Participation rate	Amount Collected
1993	42,587	1.50%	\$56,648
1994	279,523	9.89%	\$394,150
1995	247,097	8.45%	\$351,705
1996	291,872	9.86%	\$417,791
1997	320,284	10.39%	\$449,991
1998	279,600	8.82%	\$382,270
1999	326,599	10.22%	\$447,283
2000	325,878	9.89%	\$445,789
2001	341,008	10.32%	\$465,545
2002	305,810	9.24%	\$419,308
2003	265,373	8.08%	\$365,895
2004	248,744	7.50%	\$343,790
2005	231,579	6.98%	\$321,393
2006	222,241	6.51%	\$308,467
2007	213,183	6.16%	\$296,489
2008	200,895	5.78%	\$280,672
2009	192,549	5.68%	\$269,131
2010	195,037	5.59%	\$272,463
2011	184,808	5.24%	\$258,910
2012	176,555	4.93%	\$247,366
2013	175,552	4.89%	\$245,108
2014	NA	NA	\$249,160*
2015	NA	NA	\$245,951*
2016	NA	NA	\$244,085*
2017	NA	NA	\$245,688*

Chapter 43 of the Acts of 1994 changed the funding mechanism for the SECF from a voluntary \$1 taxpayer donation (add-on) to a \$1 taxpayer designation (check-off), or \$2 for a joint return, effective tax year 1994.

Source: Massachusetts Department of Revenue

***OCPF estimate**

A total of \$1,210,257 was available to candidates last year, which was not enough to provide the full statutory amounts of matching funds to all candidates who agreed to observe spending limits in return for public money.

IV. Candidates' Participation in the 2018 Program

Statewide candidates may only receive limited public financing if they agree to observe spending limits throughout the entire campaign. Party-affiliated candidates, for example, must observe limits in both the primary and general elections. Candidates who are not enrolled in a

party cannot participate in a primary, but must observe limits starting with the date nomination papers are due in August and running through the general election.

The statutory spending limits vary according to the office sought:

Expenditure Limits for Public Financing Participants

	Primary	General	Total Limit
Governor	\$1,500,000	\$1,500,000	\$3,000,000
Lt. Governor	\$625,000	*	\$625,000
Attorney General	\$625,000	\$625,000	\$1,250,000
Treasurer	\$375,000	\$375,000	\$750,000
Secretary of State	\$375,000	\$375,000	\$750,000
Auditor	\$375,000	\$375,000	\$750,000

In return for agreeing to limits, candidates who have opposition in the primary are eligible to receive money for both the primary and, if they are successful in the primary and are opposed, the general election. The amounts for which they are eligible are equal to half of their statutory spending limits:

Maximum Distributions for Public Financing Participants

	Primary	General	Total
Governor	\$750,000	\$750,000	\$1,500,000
Lt. Governor	\$312,500	*	\$312,500
Attorney General	\$312,500	\$312,500	\$625,000
Treasurer	\$187,500	\$187,500	\$375,000
Secretary of State	\$187,500	\$187,500	\$375,000
Auditor	\$187,500	\$187,500	\$375,000

* Because the nominees for governor and lieutenant governor run as a “candidate team” after the primary, they are both included in the gubernatorial candidate’s general election spending limit and maximum matching funds amounts.

For example, participating candidates for governor are limited to expenditures of \$1.5 million for the primary election campaign (which was June 6 to Sept. 4 in 2018) and \$1.5 million for the general election campaign (which was Sept. 5 to Nov. 6 in 2018, and Aug. 29 to Nov. 6 for unenrolled candidates), for a total of \$3 million. In return, those candidates were eligible for up to \$750,000 in matching funds for each of the two periods, for a total of \$1.5 million. If opposed by a non-participating candidate, a participating candidate is still eligible to receive funds. Additionally, their expenditure limit would be increased to the highest amount set by a non-participating candidate.

A total of 21 candidates for statewide office were required to file declarations with OCPF stating whether they agreed to observe statutory spending limits in 2018. Candidates on the ballot in a party primary filed prior to submitting nomination papers to the Secretary of the

Commonwealth in June, while candidates who were not enrolled in a party did so prior to filing their papers in August.

Participation in Public Financing 2018 Statewide Candidates

<u>Office / Statutory Limit*</u>	<u>Agreed to limits (participants)</u>	<u>Did not agree to limits (non-participants)</u>
Governor \$1.5 million per election**	Jay Gonzalez (D) Scott Douglas Lively (R) Robert Massie (D)	Charles Baker (R)
Lieutenant Governor \$625,000 Primary**	Quentin Palfrey (D) Jimmy Tingle (D)	Karyn Polito (R)
Attorney General \$625,000 per election	James McMahon (R) Daniel Shores (R)	Maura Healey (D)
Secretary \$375,000 per election	Juan Gabriel Sanchez (U)	Anthony Amore (R) William Galvin (D) Joshua Zakim (D)
Treasurer \$375,000 per election	Jamie Guerin (U)	Deborah Goldberg (D) Keiko Orrall (R)
Auditor \$375,000 per election	Suzanne Bump (D) Daniel Fishman (L) Edward Stamas (U)	Helen Brady (R)

* Statutory limit is subject to increase depending on self-imposed limit set by any opponent who did not agree to statutory limits.

** Because the nominees for governor and lieutenant governor run as a “candidate team” after the primary, they are both included in the gubernatorial candidate’s general election spending limit and maximum matching funds amounts.

Note: Unenrolled candidates (U) do not have a primary and were on the general election ballot only. All three unenrolled candidates ran as Green-Rainbow Party candidates.

To become eligible to receive public funds, candidates filed statements with OCPF listing contributions received that qualified under the matching funds formula, in amounts depending on the office sought. Qualifying contributions include only the first \$250 of individual contributions that were received during 2017 and 2018 and deposited into a candidate’s depository bank account. Prior to receiving public funds, candidates were required to obtain a bond for the amount they were entitled to receive from the SECF and were subject to penalties if they misused public funds. Matching funds were wired into a candidate’s depository account by the Commonwealth and, like all campaign receipts and expenditures, were disclosed in the regular disclosure reports filed by their committees.

V. Statutory Responsibilities

The distribution of funds to candidates who apply for funding in the manner described above involves the coordination of the efforts of five state agencies.

The Treasurer is responsible for the management and investment of the State Election Campaign Fund as well as the disbursement of any funds to certified candidates. As noted below, funds collected by the Department of Revenue through state income tax returns have provided the sole source of revenue for the SECF.

On June 30 of each year in which elections are held for the six statewide offices, the Comptroller determines the balance in the SECF and the Treasurer is required to make all invested funds available for immediate withdrawal. The total amount that is available for public financing that year is apportioned on a 50/50 basis, with half available for the Primary Election Account and half available for the General Election Account. The total amount in 2018 was \$1,210,257.

On or before the eighth Tuesday before the primary, the Secretary of the Commonwealth certifies to OCPF the names of those candidates who qualify for the primary ballot and who are opposed by one or more candidates. (Unopposed candidates are not eligible for public financing.) Once the Secretary has certified the number of names to the Director, and the Director has completed the certification of participating candidates, the Comptroller subdivides the Primary Election Account into accounts for each participating candidate, based on a formula provided for by M.G.L. Chapter 10.

As noted earlier, the law calls for candidates for governor to receive full funding first, then for candidates for the other five statewide offices to receive money, based on availability. For example, the primary election account would first be divided to allow each certified gubernatorial candidate to be eligible to receive the full primary share for that office of \$750,000, or as close to that amount as possible if there were not enough money to do so. If there was any money left over, it would be divided proportionately among other certified candidates.

In 2018, funds were only available for gubernatorial candidates.

The Director of OCPF is responsible for certifying to the treasurer that each candidate has met the statutory obligations necessary to receive the public funds.

VI. The Primary Election

Spending Limit Declarations

The first filing deadline for candidates concerning the public financing system for 2018 was June 5, the same day nomination papers were due with the Elections Division of the Secretary of the Commonwealth. On or before that date, a total of 18 candidates who were seeking their

parties' nomination for statewide office filed statements declaring whether they intended to limit their spending in the 2018 primary and general elections.

Failure to file a statement would have meant a candidate could not be on the primary ballot. However, every candidate filed the statement, form CPFA 20.

Of the candidates who were eligible for the primary ballot, nine agreed to abide by spending limits, which were binding for both the primary and general elections. Candidates who were not enrolled in a political party and were therefore not on the ballot in the September primary were not required to file limit declarations in June. Rather, their filings were due on Aug. 28, the deadline for unenrolled candidates to submit nomination papers with the Secretary of the Commonwealth. There were three unenrolled candidates in 2018.

At the time of the filings, OCPF estimated the amount of money in the State Election Campaign Fund that would be available to participating candidates at about \$1.2 million, which by statute was to be divided evenly between the primary and general election campaigns. The program calls for gubernatorial candidates to receive funds first, if they agree to limit spending and have a primary opponent. Because candidates for governor with primary opponents agreed to participate, no funds were available for other races.

Self-imposed Limits

Candidates who chose not to participate in the public financing system but were opposed by at least one participating candidate (i.e., those who had agreed to limits) in their primary were still required to observe a spending limit, though the exact amount in each race would be self-imposed. Those non-participating candidates were required to file by June 8 a statement with OCPF stating the maximum amount that they would spend in the primary campaign.

The spending limits of the participating candidates in those races were then increased to the amounts specified by their non-participating opponents. The amount of public funds for which those participating candidates were eligible, however, did not change.

The only candidate who declined to accept statutory expenditure limits and was opposed in the primary by at least one candidate who had agreed to limit spending was Gov. Charles Baker. Baker's statement set the spending limit at \$9 million, meaning that the spending limit for his primary opponent, Scott Lively, increased to \$9 million from the statutory limit of \$1.5 million.

In other races, spending statements were not required because those contests either had no candidates who agreed to participate in the public financing program, or had candidates that agreed to participate but did not face primary opponents who chose not to participate.

Spending Limits for the 2018 Primary Election

Statutory or Self-Imposed

(June 6 to Sept. 4)

Race	Democratic Primary Election Spending Limit*	Republican Primary Election Spending Limit*
Governor	\$1.5 million	\$9 million
Lt. Gov.	\$625,000	No Limit
Attorney General	No Limit	\$625,000
Secretary	No Limit	No Limit
Treasurer	No Limit	No Limit
Auditor	\$375,000	No Limit

****Per candidate***

Note: "No Limit" means no candidate for that race agreed to participate in the public financing program

Certification and Release of Funds

In July, the Comptroller certified the amount that was available in the State Election Campaign Fund for distribution to candidates in 2018 at \$1,210,257. Under law, that amount was split in half: \$605,128 for the primary campaign and the same amount for the general election campaign. Any funds that remained after the primary would be added to the general election amount.

Each candidate who agrees to observe a spending limit and submits the minimum amount of qualifying contributions are eligible to receive matching funds for the primary. As noted earlier, gubernatorial candidates are funded first and remaining funds, if any, are distributed to other statewide candidates. Because gubernatorial candidates qualified to receive matching funds in the primary, no funds remained for candidates running for other statewide offices.

Two gubernatorial candidates were certified and received funds for the primary election. One candidate, Jay Gonzalez, received the maximum amount available.

Funds Disbursed in the 2018 Primary Campaign

<i>Candidate</i>	<i>Office sought</i>	<i>Amount disbursed</i>
Jay Gonzalez (D)	Governor	\$302,564
Robert Massie (D)	Governor	\$164,842
TOTAL		\$467,406

VII. The General Election

The general election campaign did not officially start until the day after the Sept. 4 primary (Aug. 29 for unenrolled candidates), though all candidates had previously made their intentions known regarding whether they would comply with spending limits. The statements filed by Democratic and Republican candidates in June stating whether they agreed to spending limits were binding for both the primary and general elections. Unenrolled candidates who were seeking statewide office filed statements by Aug. 28 indicating whether they intended to limit their spending in the general election.

All three unenrolled candidates – Jamie Guerin, treasurer; Juan Gabriel Sanchez, secretary; and Edward Stamas, auditor – agreed to observe spending limits.

Prior to the general election, statewide candidates who were not participating in the public financing program, but were opposed by participating candidates, were required to file maximum spending declarations by Sept. 10. The candidates who filed statements with OCPF by the deadline were Gov. Charles Baker (R); Secretary William Galvin (D); Anthony Amore (R), candidates for state secretary; Attorney General Maura Healey (D); Treasurer Deborah Goldberg (D); Keiko Orrall (R), candidate for state treasurer; and Helen Brady (R), candidate for state auditor. Baker and his running mate for lieutenant governor, Karyn Polito (R), were required to file one statement as a candidate team.

If applicable, participating candidates' limits for the election period (Sept. 5 to Nov. 6, and Aug. 29 to Nov. 6 for unenrolled candidates) were raised to the highest amount cited by a non-participating candidate in that race.

As a result of the filings, the spending limits for all candidates in four races were increased to the amount of the self-imposed limit by the non-participating candidates. All four candidates for state auditor were limited to the statutory spending limit of \$375,000 because Republican candidate Helen Brady, who did not participate in public financing program, set the spending limit at \$375,000.

The self-imposed limits declared by each of the seven filers were:

Governor/Lt. Gov.

- **Baker/Polito: \$20 Million.** The spending limit for Baker's general election opponent, **Jay Gonzalez (D)**, increased to \$20 million from the statutory limit of \$1.5 million. Spending by lieutenant governor candidates also counts toward the gubernatorial cap of \$20 million. The lieutenant governor candidates were Polito and **Quentin Palfrey (D)**.

Secretary

- **Amore: \$2 million.** The spending limit for Amore's opponents, Galvin and unenrolled candidate **Juan Gabriel Sanchez** (Green-Rainbow), increased to \$2 million from the statutory limit of \$375,000.
- **Galvin: \$1 million.** Galvin's Republican opponent, Amore, set the limit at \$2 million, increasing Galvin's limit to \$2 million.

Attorney General

- **Healey: \$2.5 million.** The spending limit for Healey's general election opponent, Republican **James McMahon**, increased to \$2.5 million from the statutory limit of \$625,000.

Treasurer

- **Goldberg: \$2 million.** Goldberg and Orrall set the same \$2 million spending limit, which then applied to unenrolled candidate **Jamie Guerin** (Green-Rainbow). The statutory spending limit for treasurer is \$375,000.
- **Orrall: \$2 million.**

Auditor

- **Brady: \$375,000.** Because Brady set the spending limit at the public financing statutory spending limit for state auditor candidates, all candidates in the race remained limited to spending \$375,000. The other candidates were incumbent **Suzanne Bump** (D); Libertarian candidate **Daniel Fishman**; and unenrolled candidate **Edward Stamas** (Green-Rainbow).

General Election Spending Limits for all Statewide Races

Governor/Lt. Governor Team	\$20 million
Secretary of the Commonwealth	\$2 million
Attorney General	\$2.5 million
Treasurer	\$2 million
Auditor	\$375,000

Release of Funds

Half of the State Election Campaign Fund – \$605,128 – was made available to candidates for the general election. Eight candidates remained who were on the general election ballot and had agreed to spending limits, and were therefore eligible to receive funding – if they ultimately submitted qualifying contributions for matching funds.

State law calls for candidates for governor to be funded first, with any remaining funds to be distributed to other statewide candidates who are eligible to receive public financing. Because the fund contained \$605,128* for the general election, and because the Democratic candidate for governor, Jay Gonzalez, qualified for public financing, the total was made available for him and there was no money available for other candidates.

Running mates for lieutenant governor are considered eligible to receive public funds if they agree to spending limits and are in a contested race. However, public funds for the general election are distributed to a gubernatorial candidate team and deposited to the depository account of the gubernatorial candidate. For the purpose of this report, the gubernatorial candidates are considered the recipients of the money.

The following are the allotments of public funds for the general election and the overall totals:

Total Public Funds Received in 2018

<i>Candidate/Office</i>	<i>Primary</i>	<i>General</i>	<i>Total</i>
Jay Gonzalez (D)	\$302,564	\$626,333	\$928,897
Robert Massie (D)	\$164,842	--	\$164,842
TOTAL	\$467,406	\$626,333*	\$1,093,739

**\$605,128 was made available to candidates for the general election. However, because Robert Massie did not submit enough matching contributions to receive the full amount available (\$302,564) for the primary election, the remaining \$137,722 rolled over to the general election and was made available to Gonzalez, allowing him to receive more than \$605,128.*

A total of \$1,093,739 was distributed to two candidates from the SECF, which originally contained \$1,210,257. The balance of \$122,265 in unused funds is now retained for use in the statewide election in 2022, in accordance with Chapter 55C.

Not all the funds were used for several reasons:

- Robert Massie did not submit enough matching contributions to receive the full amount available, \$302,564, for the primary election. As a result, \$137,722 rolled over to the general election and was made available to Gonzalez.
- Chapter 55C requires that after the primary and general elections, candidates return any unused public funds. After the primary election, it was determined that a total of \$27,308 in public funds was not used by Gonzalez during the primary campaign period. By agreement with OCPF, the Gonzalez Committee did not

write a check to the Commonwealth for this amount. Instead, the committee's general election distribution was reduced by \$27,308.

- After the general election, Gonzalez returned \$5,747 in surplus funds to the state.

VIII. Conclusion

The SECF was a source of funds for two gubernatorial candidates, none of whom were ultimately successful in the 2018 election.

Several issues can be considered to determine whether the SECF can be improved. Among the revenue issues are whether additional funding sources should be designated to augment the checkoff or whether the checkoff itself should be increased from its current \$1 per filer. Another issue to be considered is how funds should be allocated, especially if the longstanding revenue shortfall continues. Should the spending limits and the statutory payments be increased to account for inflation? Should the current 50/50 division of SECF funds for the primary and general elections be modified to provide more money for one election over the other?

As always, OCPF is ready to take part in any discussion of the future of the limited public financing program or any other campaign finance issue.