

OFFICE OF
CAMPAIGN
and
POLITICAL
FINANCE

Commonwealth
of Massachusetts

**REPORT ON THE LIMITED
PUBLIC FINANCING SYSTEM
FOR CANDIDATES
FOR STATEWIDE OFFICE
IN MASSACHUSETTS IN
THE 1994 ELECTION**

JANUARY 30, 1995

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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 and shall make copies of such report available to any person upon payment of the reasonable cost of copying or reproduction."

In accordance with Mass. General Laws chapter 55A, section 3, this report summarizes Massachusetts' limited public financing system of campaigns for statewide elective office during the 1994 election.

Chapter 774 of the Acts of 1975 established the public financing system in Massachusetts by creating the State Election Campaign Fund (SECF) and outlining the statutory responsibilities of the five agencies involved in administering the system. This report outlines the functions of each agency and specifies the financing available to and received by each participating candidate. In addition, this report contains a review of past state practices, an update on recently enacted legislation which alters the public financing system, effective January 1, 1995, and recommendations for the future of the system.

The efficiency of the public financing system during the 1994 election was due in large part to the coordination between the Office of Campaign and Political Finance (OCPF), the Office of the Secretary of State, the Department of Revenue, the Office of the Comptroller and the Office of the State 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.

The Elections Division of the Secretary of State's office was particularly helpful with the early certification of the names of candidates. OCPF was provided with periodic updates of the status of the State Election Campaign Fund by the Department of Revenue. The staffs at the Comptroller's office and the State Treasurer's office deserve special mention for their assistance in processing the public financing payments to candidates. OCPF would like to acknowledge the professionalism and cooperation shown by each of these agencies during this past election season.

The process of reviewing candidate submissions of qualifying contributions requires an extraordinary effort on the part of the OCPF staff. Their willingness to undertake this additional work during an already busy election season is an

example of their competence and dedication. In particular, Bradley Balzer, Deputy Director of OCPF, deserves special recognition for his efforts in educating candidates and their campaign staff, approving thousands of individual qualifying contributions, coordinating the efforts of the agencies mentioned above and assuring strict adherence to every aspect of the law. It is Mr. Balzer who is responsible in large part for the success of the public financing system in the 1994 state elections.

I am grateful to the agencies and individuals who helped administer this program, as well as to the candidates and their political committees who cooperated with this office and made our task that much easier.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned above the printed name and title.

Michael J. Sullivan,
Director

HISTORICAL REVIEW

Chapter 774 of the Acts of 1975 established the public financing system in Massachusetts, which was one of the first such systems in the nation. Modeling some aspects of our program after the federal presidential system administered by the Federal Election Commission, Massachusetts undertook the first application of limited public financing for statewide offices in the 1978 state elections. The total sum of public funds available for all candidates at that time was \$175,161.

The funding mechanism provided for in the enacting statute created the State Election Campaign Fund, the account where all taxpayer contributions are collected. Chapter 774 also specified the level of funding available for the primary election and the state election. The total funds available for the last five statewide elections and the allocation between primary and state elections are contained in the following table:

	<u>60 % to Primary Election Account*</u>	<u>40 % to General Election Account*</u>	<u>Total Funds</u>
1978	\$ 105,094.00	\$ 70,067.00	\$ 175,161.00
1982	\$ 407,958.11	\$ 271,972.08	\$ 679,930.19
1986	\$ 533,098.95	\$ 355,399.30	\$ 888,498.25
1990	\$ 270,002.16	\$ 180,001.69	\$ 450,003.85
1994	\$ 215,062.69	\$ 177,938.96	\$ 358,438.01

* Amounts certified by State Comptroller

Given the timing of the passage of the public financing system, the 1978 election had the benefit of only two years of taxpayer contributions. Consequently, the significant growth of the SECF in 1982 was due in part to the fact that the 1982 balance represented a full four years of taxpayer contributions.

A review of the 1986 fund balance indicates that the SECF continued to grow at approximately the same rate as the previous four years. The increase in the balance is due to the

unused monies of approximately \$200,000 which remained after the 1982 election and was retained in the fund, accruing interest, until the 1986 election.

The significant decrease in funds available during the 1990 election was based both on a lack of any significant carry-over from the 1986 election and a continued decrease in the taxpayer participation rate.

Unfortunately, the decrease in contributions to the SECF has continued during the last four years, resulting in a balance of funds available for the 1994 election which was the lowest since 1978.

In spite of the varying amounts of public funds available, the interest and participation of the candidates over the years has remained steady. As the chart below suggests, public financing has been viewed as an important part of the electoral process which candidates have taken appropriate steps to secure.

	<u>Primary Eligible</u>	<u>Primary Received</u>	<u>Election Eligible</u>	<u>Election Received</u>
1978	22	12	10	8
1982	12	12	16	3 *
1986	11	9	10	10
1990	17	15	14	8 *
1994	19	10	16	8 *

* During the 1982, 1990 and 1994 state elections, there were a number of third or minor party candidates who were eligible for public financing but failed to submit the minimum amount of qualifying contributions and, therefore, did not receive any funds.

The concept of "matching" funds was established by legislative action in 1986. In order to qualify for public financing, a candidate must submit a minimum amount of "qualifying contributions," which is determined by the office sought. Once this threshold is met, the candidate may submit additional contributions in order to exhaust funds allocated to that candidate. The decreasing amounts available in the SECF, however, have resulted in candidates only needing to submit the minimum amount of qualifying contributions in order to receive the total allocated amount. The 1986 election was the last in which there were sufficient monies available to enable candidates to qualify for public financing over and above the minimum threshold.

STATUTORY RESPONSIBILITIES

As previously mentioned, five state agencies are involved in the administration of the public financing system. Each office has statutory responsibilities for particular components of the State Election Campaign Fund and the distribution of public funds to eligible candidates as outlined below.

The State Election Campaign Fund was established through section 42 of M.G.L. chapter 10. The State Treasurer is responsible for the management and investment of the SECF as well as the disbursement of any funds to candidates. Monies collected by the Department of Revenue through state income tax returns have provided the sole source of funds for the SECF. The mechanism for collection, the so-called "add-on" system, allowed taxpayers to voluntarily contribute to the SECF by adding \$1.00 (\$2.00 if filing jointly) to their state income tax. The DOR directed each taxpayer's contribution to the fund as income tax filings were processed. This system has been changed for tax year 1994 and thereafter to a \$1.00 "check-off" system, similar to the Presidential Election Campaign Fund. (This change will be discussed in greater detail later in this report.)

The Comptroller determines the amount of funds available in the SECF on a periodic basis in order for the State Treasurer to properly invest the monies. The fund earns investment income as a result of these measures, and this income is added to the balance available in the SECF.

On June 30 of each year that elections are held for the six statewide constitutional offices, the Comptroller determines the balance of the SECF and the State Treasurer is required to make all invested funds available for immediate withdrawal. This balance represents the total funds available for limited public financing in that election. M.G.L. chapter 10 also requires that the Comptroller allocate the available monies of the SECF on a 60/40 basis, with 60 percent of the funds designated for the Primary Election Account and 40 percent of the funds designated for the State Election Account.

On or before the ninth Tuesday (changed to the eighth Tuesday by recent legislation) before the Primary Election, the Secretary of State must certify to the Director of OCPF the names of those candidates who qualify for the primary ballot and who are opposed by one or more candidates. Once the Secretary has certified the names to the Director, the Comptroller subdivides the Primary Election Account into primary accounts for each candidate, based on a percentage provided for by M.G.L. chapter 55A.

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

receive these monies, each candidate must submit to OCPF a specific amount of privately raised "qualifying contributions." A detailed review of the necessary forms, bonds and lists of contributions is conducted by OCPF to insure that each candidate is properly certified. The Treasurer is then responsible for the disbursement to candidates of the money which the Director has certified. Once the primary election is held, OCPF reviews information provided by the candidates to determine if any refunds are to be made to the SECF and oversees such payments.

A similar process is followed for the State Election, beginning with the Secretary of State certifying the names of candidates and concluding with the Director requiring appropriate refunds.

STATE ELECTION CAMPAIGN FUND

The State Election Campaign Fund was established under M.G.L. chapter 10, section 42. This fund is the depository for all taxpayer contributions to the public financing system.

State income tax forms have provided the taxpayer with an opportunity to support the public financing of statewide campaigns through a voluntary "add-on" system. This system has allowed taxpayers to contribute \$1.00 (\$2.00 if filing jointly) to the SECF by adding this amount to their state income tax liability or subtracting this amount from their state income tax refund. The identification and collection of this money is handled by the Massachusetts Department of Revenue.

The following table indicates the level of activity by taxpayers who have participated by contributing to the SECF since its inception in 1976. A review of this information underscores the difficulty in attaining adequate funding for the SECF under the \$1.00 add-on system and the need for the recent change to the "check-off" system.

The participation rate on the state level has decreased from a high of 4.91 percent to its current low of 1.47 percent. (Though the latest actual figures for tax year 1993 are not yet available from the Department of Revenue, preliminary estimates indicate that the participation rate will likely fall to its all-time low.) Given this trend, it naturally follows that the public financing system in Massachusetts fell to its lowest amounts ever available to candidates in 1994.

It is anticipated that the switch to the \$1.00 check-off system of funding the SECF, similar to the mechanism for funding the Presidential Election Campaign Fund on the federal level, will provide greater funding for Massachusetts' public financing system. An estimate of the funding is provided later in this report.

TAXPAYER CONTRIBUTIONS TO THE STATE ELECTION CAMPAIGN FUND

<u>Tax Year</u>	<u>Number of Eligible Contributors</u>	<u>Amount Contributed</u>	<u>Contributors as a Percentage of Those Eligible</u>
1976	3,344,198	\$ 108,669	3.25
1977	3,369,168	\$ 166,811	4.91
1978	3,470,956	\$ 103,367	2.98
1979	3,465,127	\$ 99,330	2.84
1980	3,512,422	\$ 99,593	2.84
1981	3,724,364	\$ 133,020	3.57
1982	3,728,245	\$ 142,070	3.81
1983	3,833,910	\$ 110,817	2.89
1984	3,939,575	\$ 105,930	2.69
1985	4,012,679	\$ 96,178	2.40
1986	4,076,171	\$ 104,403	2.56
1987	4,016,645	\$ 82,585	2.06
1988	4,172,838	\$ 72,566	1.73
1989	4,139,425	\$ 75,400	1.82
1990	4,113,686	\$ 69,446	1.68
1991	4,028,090	\$ 60,995	1.51
1992	4,010,308	\$ 59,258	1.47
1993	3,679,250 *	\$ 39,037	1.06 *

* - Estimate. Actual figures for total eligible contributors not yet available.

Source: Massachusetts Department of Revenue

1994 PRIMARY ELECTION

On July 19, 1994, the Secretary of State certified to the Director the names of 13 candidates who qualified for the primary election ballot and who were opposed by one or more candidates in the primary election.

Of those 13 candidates, there were three candidates for the office of governor; two for the office of lieutenant governor; two for the office of attorney general; four for the office of secretary of state; and two for the office of auditor. Of these candidates, seven were Democrats and six were Republicans.

Of the 13 candidates certified by the Secretary of State, 10 requested public financing and filed the necessary forms, including a bond in the appropriate amount (based on office sought) and a list of qualifying contributions. The following table shows the amount of funds available to each of the eligible primary election candidates, the amount of money certified by the Director and the amount received by each candidate.

The total amount of public financing available in the Primary Election Account was \$ 215,062.69 (or 60 percent of the \$ 358,438.01 in the SECF as of June 30, 1994). Of that available money, a total of \$ 180,499.04 was certified and received by eligible candidates, resulting in a balance of \$ 34,563.65. This balance was carried over to the State Election Campaign Fund in accordance with section 44 of M.G.L. chapter 10.

M.G.L. chapter 55A provides a formula for refunds to the SECF. Specifically, candidates who received public financing and who retain a surplus balance of campaign funds at the time of the primary election would be required to refund a portion of the public money received. All participating candidates from the primary election filed the appropriate documentation. OCPF staff conducted a thorough review of this material and determined that the following refund payments be made to the SECF:

<u>Candidate</u>	<u>Total Received</u>	<u>Refund</u>
William Galvin	\$ 7,680.81	\$ 1,714.92 *

* - Since this candidate qualified for the state election ballot and was certified to receive public financing in that election, the public financing statute allows for a reduction in the amount certified to the candidate for that election rather than a repayment to the State Election Campaign Fund.

1994 PRIMARY ELECTION

<u>Candidate</u>	<u>Office Sought</u>	<u>Minimum Amounts Qualifying Contributions Required</u>	<u>1994 Actual Amounts Available</u>	<u>1994 Actual Amounts Certified by Director</u>
Bachrach, George	Governor	\$ 75,000	\$ 38,404.05	\$ 38,404.05
Barrett, Michael	Governor	\$ 75,000	\$ 38,404.05	\$ 38,404.05
Roosevelt, Mark	Governor	\$ 75,000	\$ 38,404.05	\$ 38,404.05
Draisen, Marc	Lt. Governor	\$ 15,000	\$ 7,680.81	\$ 7,680.81
Massie, Robert	Lt. Governor	\$ 15,000	\$ 7,680.81	\$ 7,680.81
Berry, Janis	Attorney General	\$ 15,000	\$ 19,202.03	\$ 19,202.03
Carbone, Guy *	Attorney General	\$ 37,500	\$ 19,202.03	\$ 0.00
Galvin, William	Secretary of State	\$ 15,000	\$ 7,680.81	\$ 7,680.81
Grace, Augusto	Secretary of State	\$ 15,000	\$ 7,680.81	\$ 7,680.81
Chase, Arthur	Secretary of State	\$ 15,000	\$ 7,680.81	\$ 7,680.81
Forman, Peter	Secretary of State	\$ 15,000	\$ 7,680.81	\$ 7,680.81
Clark, Forrester *	Auditor	\$ 15,000	\$ 7,680.81	\$ 0.00
Stroll, Earle *	Auditor	\$ 15,000	\$ 7,680.81	\$ 0.00
Total:			\$215,062.69	\$180,499.04
Unclaimed:				\$ 34,563.65

* - These candidates failed to file a request for public financing or a list of qualifying contributions and, therefore, were not certified to receive funding.

1994 STATE ELECTION

On October 4, 1994, the Secretary of State certified to the Director the names of four "teams" and 12 individual candidates who qualified for the state ballot and who were opposed by one or more candidates in the state election. In the state election, the candidates of the same political party for the offices of governor and lieutenant governor appear on the ballot as a team. M.G.L. chapter 55A provides for funding of their state election campaigns on that team basis.

Of the 20 names on the ballot, there were four teams for the offices of governor and lieutenant governor; two individual candidates for the office of attorney general; three candidates for the office of secretary of state; four candidates for the office of treasurer; and three candidates for the office of auditor. Of these 20 candidates, six were Democrats; six were Republicans; five were Libertarian; two were of the LaRouche Was Right party; and one was unenrolled.

For the State Election Account, the Comptroller determined that a total of \$ 177,938.96 was available to candidates who faced opposition. This calculation was made by taking 40 percent of the SECF as of June 30, 1994 - the percentage mandated by law - and adding to it the \$ 34,563.65 in unclaimed monies carried over from the 1994 Primary Election Account.

Only one of the four teams and seven of the 12 individual candidates who were eligible for public financing provided the necessary forms, a bond in the appropriate amount and a list of qualifying contributions and were certified by the Director to receive public financing. The following table lists the amount of money available to each eligible state election candidate, the amount of money certified by the Director and amount received by each candidate.

The unclaimed balance of \$ 101,679.40 will be retained in the State Election Campaign Fund for use in the 1998 public financing program.

A process similar to the one outlined for the primary election is used in determining refunds to the SECF after the state election. All certified candidates from the state election filed the appropriate documentation itemizing the status of their accounts in order for the Director to determine if a surplus of funds was available warranting a refund of public money. It was determined that the following refund payments must be made to the SECF:

<u>Candidate</u>	<u>Total Received</u>	<u>Refund</u>
Joseph DeNucci	\$ 5,083.97	\$ 354.66
William Galvin	\$ 5,083.97	\$ 284.00
Scott Harshbarger	\$ 12,709.93	\$ 395.14

V

PUBLIC FUNDING AS A PERCENTAGE OF FUNDS RAISED - 1994

<u>Candidate</u>	<u>Total Public Money Received</u>	<u>Total Private Contributions*</u>	<u>Total Public and Private Funds</u>	<u>% Public Money to Total Received</u>
Bachrach, George	\$ 38,404.05	\$ 369,173.20	\$ 407,577.25	9.4
Barrett, Michael	\$ 38,404.05	\$ 485,747.95	\$ 524,152.00	7.3
Berry, Janis	\$ 31,911.96 **	\$ 359,317.22	\$ 391,229.18	8.2
Chase, Arthur	\$ 12,764.78 **	\$ 277,503.03	\$ 290,267.81	4.4
DeNucci, Joseph	\$ 5,083.97	\$ 438,624.00	\$ 443,707.97	1.1
Draisen, Marc	\$ 7,680.81	\$ 114,435.81	\$ 122,116.62	6.3
Forman, Peter	\$ 7,680.81	\$ 296,238.91	\$ 303,919.72	2.5
Galvin, William	\$ 12,764.78 **	\$ 320,809.08	\$ 333,573.86	3.8
Grace, Augusto	\$ 7,680.81	\$ 144,583.70	\$ 152,264.51	5.0
Harshbarger, Scott	\$ 12,709.93	\$1,464,801.20	\$1,477,511.13	0.8
Malone, Joseph	\$ 5,083.97	\$2,118,088.45	\$2,123,172.42	0.2
Massie, Robert	\$ 7,680.81	\$ 216,864.36	\$ 224,545.17	3.4
O'Brien, Shannon	\$ 5,083.97	\$ 403,510.40	\$ 408,594.37	1.2
Roosevelt, Mark	\$ 63,823.90 **	\$ 923,460.95	\$ 987,284.85	6.4

* Total private contributions includes all money raised from 1/1/93 or the day the candidate's committee organized to run for statewide office, if later, through the reporting period closest to the relevant election (primary or general).

** Received public funds in both the primary and general elections. Public funds received by governor/lieutenant governor teams in the general election are attributed to the candidate for governor.

CHANGES TO THE PUBLIC FINANCING SYSTEM

For the last several years, the Director's report on the public financing system has recommended several changes designed to increase the amounts of money in the State Election Campaign Fund and to help the system operate more efficiently. A major piece of campaign finance legislation enacted in 1994 will help meet those goals.

First, and perhaps most importantly, Chapter 43 of the Acts of 1994 changed the funding mechanism for the SECF. Beginning with their tax year 1994 filings, Massachusetts tax filers will now have the opportunity to designate \$ 1.00 (or \$ 2.00 for joint filers) to the State Election Campaign Fund without it increasing their tax payment or reducing their tax refund. This "check-off" funding system, similar to the federal system used to support the Presidential Election Campaign Fund, should have a significant impact on the monies available for the public financing system.

Second, Chapter 43 changed the bond amount candidates for statewide office needed to post in order to receive public financing. Previously, candidates were required to post a bond in an amount set by statute, regardless of the amount available to them in the State Election Campaign Fund. Thus, while a candidate for governor previously needed to post a bond in the amount of \$250,000 to be eligible for public financing, the SECF held so little money that a candidate was posting a bond far in excess of what he could hope to receive. The legislation changed the law so that candidates are now required to post a bond only in the amount credited to that candidates account from the SECF. This legislation was signed in the midst of the public financing cycle, which made notification of candidates somewhat difficult. I am grateful to all of those candidates and their political committee officers for their patience as we sought to implement the new language.

Contributions to the SECF have fallen dramatically since its inception in 1976. By contrast, Massachusetts taxpayers have participated in the federal public financing check-off system in one of the highest percentages in the nation. In 1991 (the latest figures available from the Internal Revenue Service), Massachusetts taxpayers participated in the federal \$ 1.00 check-off at a rate of 24 percent, while their participation in the state's own add-on system in that same year was only 1.51 percent. Applying that 24 percent participation rate to the most recent figures from the state Department of Revenue for total tax returns would yield total contributions of between \$ 700,000 and \$ 800,000 per year to the public financing system. Extrapolating these figures over a four-year period would result in almost 10 times as much money being available to candidates in 1998 than in the 1994 elections.

I expect these changes to result in a more viable and efficient public financing system for Massachusetts.

RECOMMENDATIONS

While the recent changes to the public financing system represent significant improvements, there are still several areas which need to be addressed.

In addition to the many changes it made to the campaign finance law, Chapter 43 of the Acts of 1994 also created a special commission "... for the purpose of making an investigation and study relative to additional or full public financing of political campaigns." This commission is to be comprised of the following individuals or their designees: the Senate Chairman of the Joint Committee on Election Laws, Senate Ways and Means Committee Chairman, and Senate Minority Leader; House Chairman of the Joint Committee on Election Laws, House Ways and Means Committee Chairman, and House Minority Leader; the Governor; the State Secretary; the Attorney General; the State Treasurer; the Commissioner of Revenue; the Comptroller; the Director of the Office of Campaign and Political Finance; and six persons to be appointed by the Governor. This commission's report is due to the legislature on or before October 1, 1995.

It is my hope that this commission will study and make recommendations concerning several areas this office is concerned about. For example, Chapter 43 changed the public financing system to fully fund the gubernatorial race first, with a "spill over" of funding to the other statewide races. However, the law will still require the candidates to post a bond for public financing without knowing if there will be public financing available to them or in what amounts.

OCPF Deputy Director Bradley Balzer has been studying the new language of the public financing statute and will present to the commission some detailed recommendations for improving upon the system.

Finally, this office has once again - at the recommendation of the Office of the State Auditor - proposed legislation which would make the Director of the Office of Campaign and Political Finance responsible for monitoring the State Election Campaign Fund. As previously mentioned, there are currently five state agencies involved with the administration of the state's public financing system: the Secretary of State; State Treasurer; Comptroller; Department of Revenue; and the Office of Campaign and Political Finance. This bill would give the Director of OCPF the overall responsibility of monitoring the fund and coordinating the activities of all of those agencies involved.

As was the case following the 1990 statewide elections, the State Auditor has examined the public financing system and recommended this legislation as a necessary means of providing greater efficiency and improved performance in administering the State Election Campaign Fund. I respectfully urge action on this bill during the 1995 legislative session.

IN CONCLUSION

As a new director who assumed leadership of the Office of Campaign and Political Finance in August of 1994, my first experiences with the state's public financing system were both immediate and enlightening.

Despite the decreased amounts available in the State Election Campaign Fund, I was able to see how a viable system of public campaign financing could serve to empower certain candidates who may not have the financial means to otherwise compete in the statewide political arena.

For critics of current campaign finance practices, attention to creating such a viable public financing system would provide a means for enacting campaign spending limits which so many have declared necessary. But without any significant public financing available, states are powerless to enact anything more than voluntary spending limits in light of the U.S. Supreme Court's decision in *Buckley v. Valeo* (1976).

Hopefully, the change in its funding mechanism will allow the State Election Campaign Fund to grow at such a rate as to make public financing a serious and worthwhile endeavor for candidates seeking statewide office in 1998. And if the administration of public financing on that level proves effective, Massachusetts may some day be able to look forward to a system of full public financing on all levels.

Once again, I extend my thanks to the staffs of the Office of Campaign and Political Finance; the Office of the Comptroller; the Office of the Secretary of State; the Department of Revenue; and the Office of the State Treasurer and Receiver General for their efforts in successfully implementing the system of limited public financing in the 1994 state elections.