



OCPF Reports

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Commonwealth of Massachusetts

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From the Director **A closer look** **at campaigns**

Candidates for statewide office may have filed their final reports for the year, but we haven't closed the book on 2006 yet.

We're about to start a comprehensive audit of statewide candidates' activity, reviewing documents such as invoices, canceled checks and other data that comprise the numbers they reported to us during the campaign.

We have just sent letters to several committees asking them to drop off their records at our office. Those boxes will be in our custody for several months, as our audit staff identifies various issues for follow-up. The committees will be given a chance to address issues raised in our preliminary findings, then the final audit report will be drafted.

This additional scrutiny is understandable, given the great amount of financial activity by the average statewide campaign. (As you can read in this issue, 2006 was no exception.) All candidates and committees are required to keep good records, but that is especially important for the larger campaigns. The better a committee's record-keeping and treasurer, the easier the audit of its financial activity.

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Records set by statewide candidates and question

• Governor's race paces candidates' spending

Fueled by record totals in the race for governor, spending by candidates for statewide office reached an all-time high of \$51.3 million in 2006, according to a recent study by OCPF.

A total of \$51,466,457 was raised and \$51,317,132 was spent by the 21 statewide candidates from Jan. 1, 2005, through Nov. 15, 2006. (The state election was held on Nov. 7.)

Those two totals exceeded the aggregate records of \$45.9 million and \$47.1 million, both of which were set in the last statewide election in 2002.

Candidates for the open gubernatorial seat reported raising \$40,883,685

and spending \$42,313,711, surpassing the four-year old records of \$28 million raised and \$30.6 million spent. (The imbalance is due to the fact that

some candidates had funds on hand at the start of each election period.) The total activity by candidates for governor accounted for 82 percent of all statewide spending for the 2006 election.

The top spender for governor was Republican Lt. Gov. Kerry Healey, who reported expenditures of almost \$13.2 million in her unsuccessful campaign. Healey's figure broke the

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Candidate spending chart
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• Ballot question sets new spending mark

More than \$15.3 million was spent to promote the passage or defeat of the three questions put before voters on last year's statewide ballot.

An OCPF study showed a total of \$15,320,327 spent through Nov. 15 on the questions, which concerned the sale of wine in food stores, the nomination of candidates in state primary elections, and home-based child care providers. Each question was defeated.

The total spending in 2006 fell short of the record aggregate of \$16.1

million that was set in 1992, when four questions were on the statewide ballot. It ranks third overall, trailing the amount spent in 2000 by \$15,000.

The vast majority of the activity this year concerned Question 1, which sought to change state law to allow municipalities to grant licenses to grocery and other food stores to sell wine. A total of \$13,063,293 was spent on the question, marking a new record for single-question activity in

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Candidates: Record set for governor's race

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record set by Mitt Romney in 2002, when he spent almost \$9.4 million in his successful gubernatorial campaign. Romney did not seek re-election this year.

Second in expenditures was Democrat Christopher Gabrieli, who spent \$9.9 million in a campaign that saw him lose in the primary. Gabrieli's spending was briefly the record after he surpassed Romney's 2002 total in September, but Healey's general election activity later moved her past Gabrieli to a new mark.

The winning gubernatorial candidate, Democrat Deval Patrick, was third in total activity with \$9.2 million raised and \$8.9 million spent.

The governor's race was the only contest in which a spending record was set in 2006.

The top spender was also the winner in all but two of the six statewide contests: Healey spent more than the other candidates for governor but lost, while Goldberg was the unsuccessful top spender for lieutenant governor.

Three candidates for governor — Gabrieli, Healey and independent Christy Mihos — each gave over \$3 million to his or her campaign; in fact, those three candidates gave a total of \$22.6 million, more than 55 percent of the total money raised for the office.

Gabrieli set the new record for personal spending by any statewide candidate, with \$9,475,000 put into his campaign before the primary, or 94 percent of all funds spent by the committee. The previous record for personal spending on a campaign had been set in 2002 by Gov. Romney, who put \$6.3 million of his own money into his race.

The study does not include independent expenditures made on behalf of a candidate, which must be reported to OCPF only by the individual or entity making the expenditure. Those figures are reported elsewhere in this edition of *OCPF Reports*.

A copy of the spending study is available on OCPF's web site, www.mass.gov/ocpf. The site also includes campaign finance reports filed by each candidate.

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I want to thank the candidates and their committees in advance for their cooperation as we conduct these reviews. They are an important part of our role in providing for accurate and complete disclosure.

* * *

In staff news, we recently welcomed two new members of our Audit Department, Leslie Dano and Michael Joyce. Leslie comes to us from the state Division of Capital Asset Management, while Michael had worked at Putnam Investments.

We also said goodbye to Bob Robertson, who retired as our senior auditor after 17 years with OCPF. We already miss Bob's expertise and good cheer and wish him all the best.

**Mike Sullivan
Director**

Expenditures by Candidates for Statewide Office in 2006

Figures through Nov. 15.

Winners listed first. Asterisk denotes incumbent.

GOVERNOR

Deval Patrick (D)	\$ 8,883,617.62
Kerry Healey (R)	13,174,263.17
Christy Mihos (U)	4,248,827.15
Grace Ross (G)	19,548.63
Christopher Gabrieli (D)	9,921,634.60
Thomas Reilly (D)	<u>6,065,820.12</u>
TOTAL	\$42,313,711.29

LT. GOVERNOR

Timothy Murray (D)	\$2,086,137.07
Reed Hillman (R)	792,401.79
John Sullivan (U)	42,586.66
Martina Robinson (G)	--
Deborah Goldberg (D)	2,780,885.62
Andrea Silbert (D)	<u>1,003,102.29</u>
TOTAL	\$6,705,113.43

ATTORNEY GENERAL

Martha Coakley (D)	\$897,807.84
Lawrence Frisoli (R)	<u>218,533.54</u>
TOTAL	\$1,116,341.38

TREASURER

Timothy Cahill *(D)	\$386,531.30
James O'Keefe (G)	<u>3,922.77</u>
TOTAL	\$390,454.07

SECRETARY

William Galvin *(D)	\$271,344.60
Jill Stein (G)	40,532.76
John Bonifaz (D)	<u>159,258.75</u>
TOTAL	\$471,136.11

AUDITOR

Joseph DeNucci *(D)	\$306,551.46
Rand Wilson (U)	<u>13,824.18</u>
TOTAL	\$320,375.64

Recent Cases and Rulings

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

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

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

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

Disposition Agreements

Governor's Councilor Michael Callahan, Medford (1/26/07)

OCPF entered into an agreement with Callahan concerning campaign finance reports that were not filed in conjunction with his candidacy in a special election to a state Senate seat in 2005. The Callahan Committee filed a substantially incomplete special pre-primary report late and failed to file the rest of the reports in the special election reporting cycle, which resulted in the Committee failing to report \$42,399 in receipts, \$65,424 in expenditures and \$9,112 in liabilities. The Committee also deposited \$1,650 in checks made payable to another committee into its account and accepted both corporate (\$1,775) and excess (\$1,400) contributions. The Committee did not deposit or report \$8,500 in contributions in a timely manner while subject to Section 19, which caused the Committee to file inaccurate reports. To

resolve the matter, Callahan agreed to make a payment from the Committee to the Commonwealth in the amount of \$4,825, representing the disgorgement of the corporate contributions, the excess individual and committee contributions and the contributions in the form of checks made payable to others. Callahan also agreed to a personal payment of \$2,000 to the Commonwealth.

Rep. Paul Kujawski, Webster (1/12/07)

OCPF and the Attorney General entered into an agreement with Rep. Kujawski regarding several issues, including various committee expenditures and excess PAC contributions. Kujawski made expenditures of \$11,066 for the use of an automobile leased by his committee, but made no reimbursements for personal use of the vehicle. Also, committee expenditures of \$782 for dry cleaning, \$1,061 for travel and \$11,432 for meals raised personal use issues. The committee also received, but did not refund, excess PAC contributions of \$500. Finally, the committee defaulted on two payments, totaling \$4,666.66, due under a disposition agreement signed in 2001. To resolve the matter, the candidate made a payment of \$2,500 to the Commonwealth, reimbursed his committee \$14,283, and agreed to change his campaign finance recordkeeping and expenditure practices to avoid future violations.

Public Resolution Letters

• 06-62: William Whittlesey, Sherborn.

Did not comply. (Organization of committee prior to activity); 11/15/06. A political committee should have registered with OCPF before it received funds to further a candidacy.

• 06-67: Rep. Joyce Spiliotis, Peabody.

No reason to believe. (Use of public resources for campaign purposes); 11/15/06. Legislator's use of state seal in letter sent shortly before election, describing current legislative activities, did not raise issues under Chapter 55.

• 06-54: Michael Brady, Brockton; John Petti, Brockton; John Grant, Malden; Eleanor Cushing, Malden. Did not comply (Fundraising activity by public employees); 11/15/06. Employees of the

state Lottery Commission and of the City of Malden raised funds for gubernatorial candidate Christopher Gabrieli. The Gabrieli committee voluntarily canceled the event and did not accept contributions received as a result of the solicitations.

• 06-69: District Attorney Paul Walsh, New Bedford. Did not comply (Excess contribution between political committees). 11/16/06. The Walsh Committee purchased a mailing list from another committee for \$500, a transfer that did not comply with the \$100 limit on contributions from one committee to another candidate committee.

• 06-80: John Bonnanzio, Canton. Did not comply (Disclosure of campaign finance activity); 11/16/06. A candidate failed to respond in a timely manner to inquiries regarding its 2004 year-end report, failed to file itemized reimbursements, and did not include occupation and employer information in his campaign finance reports.

• 06-63: Juan Gomez, Worcester. Did not comply (Disclosure of campaign finance activity); 11/16/06. Municipal candidate failed to accurately e-file six deposits totaling \$6,730, provide purpose information for seven expenditures totaling \$3,272, provide occupation and employer information for contributions of \$200 or more and provide clarification for two expenditures totaling \$350.

• 06-64: No On One Committee, Boston. No further action. (Ballot question committee activity); 11/20/06. Retailers' group soliciting funds for a ballot question committee was not required to organize a separate committee before the solicitation. In addition, wholesalers' pledges to match contributions were not subject to disclosure at the time of the promise; rather, they were properly disclosed when the payments were made. Finally, a ballot question committee used a name other than the name included in its organizational statement.

• 06-52: Secretary of State William Galvin, Brighton. No reason to believe. (Expenditures for office space) 11/30/06. A candidate did not receive a contribution from a law office that received and

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Ballot questions: \$15.3 million spent on measures

From Page 1

Massachusetts. The old record was the \$9.1 million spent in 1988 on an unsuccessful proposal to ban power plants that generate nuclear waste.

The committee favoring expanded wine sales, Yes on 1: Grocery Stores and Consumers for Fair Competition, reported spending \$7,273,511. That is the third-highest spending figure ever reported by a ballot question committee. Expenditures made by other parties in the form of in-kind contributions to the committee, such as staff, supplies and other materials, totaled \$448,167, to make the aggregate amount spent in favor \$7,721,678.

On the other side, the Vote No on One Committee reported expenditures of \$5,260,746, another \$7,737 was spent independently of the committee by outside parties, and \$73,132 was spent in in-kind contributions to the committee, for total opposition expenditures of \$5,341,614. The yes committee was funded primarily by

grocery stores, while the no side's primary backers were liquor distributors and retailers.

Placing second in total spending this year was activity concerning Question 3, which advocated a change in state law to allow home-based child-care providers to bargain collectively with the state.

A total of \$1,540,833 was spent by the lone committee organized for the question, the Campaign for Our Children's Future, which was funded solely by three units of the Service Employees International Union. Another \$223,806 in in-kind contributions was provided to the committee, making for total expenditures on the question of \$1,764,639. There was no committee organized to oppose Question 3, and no other spending was reported.

The proposition with the least financial activity in 2006 was Question 2, which proposed changes in the election laws to allow a candidate to

receive the nomination of more than one party.

Committee expenditures on this question totaled \$384,703, all of it spent by one of the two committees organized to support the question, the Yes on Question 2 Committee. The only activity by the other committee, Mass. Citizens for Ballot Choice, was the receipt of an in-kind contribution of \$5.42. Expenditures in the form of in-kind contributions accounted for another \$107,692, for a total of \$492,396 spent on the question. One committee, Citizens for Clear Choice, was organized to oppose the question, but it disbanded in October without raising or spending any money.

The side spending the greater amount of money did not prevail on any of the three questions in 2006.

Reports filed by the committees may be found on OCPF's Electronic Filing System, on the office's web site at www.mass.gov/ocpf. A copy of the spending study is also posted on the web site.

Advisory Opinions

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

- **AO-06-09:** A person who is the sole employee of an organization may design and distribute issue advocacy material for a candidate endorsed by the organization even if the employee had limited contacts with the candidate

for the purpose of determining whether the organization would endorse the candidate. Based on the information provided, it appeared that the employee did not have "substantial discussion or negotiation" with the candidate regarding any communication. In addition, the opinion stated that board members of the organization who did not receive information from the candidate could be involved in issue advocacy relating to the candidate. (Mass Alliance).

- **AO-06-10:** Although an organization that wishes to contribute to candidates may not accept commission checks from insurance companies providing discounted insurance to members of the organization, the organization may create a new legal

entity, a public charity registered with the Attorney General's office, for the purpose of using commission proceeds to make scholarship awards. Funds derived from the insurance companies may not be transferred by the new entity to the parent organization. (Mass. Organization of State Engineers & Scientists).

- **AO-07-01:** A town clerk who administers elections may not also serve as secretary for a local party committee, even if the party committee is located in a different town. This guidance reflects a revision of M.G.L. Chapter 55, Section 5 brought about by Chapter 299 of the Acts of 2006. (Kaplan)



Independent expenditures neared \$4 million in 2006

Organizations and individuals spent just under \$4 million in independent expenditures to support or oppose candidates for state office this year, according to figures compiled by the Office of Campaign and Political Finance.

A total of \$3,995,453 was disclosed in statements filed with the office by those making the expenditures before the Sept. 19 primary and the Nov. 7 general elections. The 358 expenditures reported were made to support or oppose a total of 87 candidates, including two running for governor.

Independent expenditures, as defined by Section 18A of the Massachusetts campaign finance law, are made by individuals or organizations that are not political committees for the purpose of expressly advocating the election or defeat of a clearly identified candidate or candidates. They are made without cooperation or consultation with any candidate or campaign, and are therefore not considered contributions subject to statutory limitation. Nevertheless, such expenditures must be disclosed to OCPF if they exceed \$100 in a calendar year.

Three unions accounted for the vast majority of the expenditures, totaling \$3,888,737, or 97 percent of the total. The Massachusetts Teachers Association reported spending the most, \$2,501,748. A Boston-based unit of the Service Employees International Union, 1199 SEIU United Healthcare Workers East, spent \$1,150,696, while the Massachusetts Nurses Association spent \$167,863.

The bulk of the teachers' group's expenditures were made up of a single media buy of \$2,287,424 to support Democratic gubernatorial nominee Deval Patrick. The MTA, which has made independent expenditures in past elections, spent another \$214,324 to support Patrick, who won the election,

and an additional \$68,430 concerning eight candidates for the Legislature. Of those candidates, all were Democrats, and all but one were elected.

Of the \$1.1 million spent by SEIU, well over half, or \$770,841, supported Patrick in the general election. The union had also spent \$231,750 in favor of another Democratic gubernatorial candidate, Thomas Reilly, before the primary. The remaining \$148,104 went toward 51 legislative candidates, all of whom were Democrats and all but two of whom were elected.

The nurses association made a single expenditure of \$92,745 for Patrick and his running mate, Worcester Mayor Timothy Murray, with the remaining \$75,118 supporting 67 legislative candidates. The candidates included four Republicans and three candidates who lost their elections.

Two additional groups, both unions, reported independent expenditures of more than \$25,000. The Massachusetts AFL-CIO spent \$51,508, all of it for Patrick, and UNITE HERE Local 26, representing textile, laundry and hotel workers, spent \$37,814 for Reilly.

Of the remaining \$17,394 in expenditures, \$5,200 was spent by organizations and \$12,194 was spent by individuals. The individual totals concerned legislative candidates with one exception: \$1,510 spent by Raymond Rogers of New York to oppose Patrick. Rogers represented a group that has opposed the Coca-Cola Co., of which Patrick had been general counsel.

The bulk of the reported expenditures concerned the candidacy of Patrick and Murray: \$3,418,681, or 85 percent of the total. All but the expenditures of Rogers noted above were in favor of the Democrat's candidacy.

The figures in the OCPF study included only those disclosed by

individuals, groups and associations in filings of Form CPF 18A with OCPF. They do not include other expenditures such as independent expenditures that refer to a candidate but do not expressly urge the election or defeat of the candidate, also known as "issue ads"; independent expenditures by political committees, which are reported in those committees' campaign finance reports; or expenditures by party committees concerning candidates. Party committees may make unlimited in-kind contributions to candidates and may also make unrestricted independent expenditures on their behalf.

The independent expenditure study may be found on OCPF's website at www.mass.gov/ocpf.

Disclosure forms for expenditures filed by each individual or organization may also be found on the website.

To contact OCPF:

By mail:
One Ashburton Place
Room 411
Boston, MA 02108

By phone:
(617) 727-8352
(800) 462-OCPF
(toll free in Mass.)

By e-mail:
ocpf@cpf.state.ma.us

Recent cases

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screened committee mail, since the candidate's committee paid the office for the service. The committee also maintained a separate campaign office, for which it made periodic rent payments.

• 06-89: Friends of the Plymouth Council on Aging. Did not comply (Disclosure of ballot question activity) 11/30/06. An organization that made expenditures to influence a municipal ballot question did not file Form M22 in a timely manner.

• 06-59: Ray Rogers, Corporate Campaign; New York. No reason to believe. (Corporate expenditures concerning candidates) 11/30/06. Where an individual made independent expenditures opposing a candidate and filed Form CPF 18A reflecting the expenditures, there was no reason to believe his corporation violated Section 8. There was also no reason to believe that he coordinated his expenditures with other candidates, which would have caused them to be considered in-kind contributions.

• 06-19: John Connolly, West Roxbury. Did not comply. (Disclosure of campaign

finance activity) 12/13/06. A depository candidate did not make timely electronic filings of contributor information. In addition, the candidate used a debit card for expenditures, which is prohibited by Section 19.

• 06-87: Margaret Ishihara, Wareham. Did not comply. (Fundraising in a public building) 01/04/07. A candidate held a fundraiser, hosted by the Democratic town committee, at the town's Council on Aging. The candidate disgorged the funds raised at the event and made a payment to the Commonwealth in the amount of \$200.

• 06-86: Brookline Greenspace Alliance. Did not comply. (Expenditures to support or oppose a ballot question) 01/04/07. An organization failed to file Form M22 disclosing its costs when it distributed a newsletter beyond its membership in support of a ballot question.

• 06-98: Eva Moss Blakeslee, Charlemont. Did not comply. (Expenditures outside depository account) 01/04/07. A candidate used her personal credit card to make campaign expenditures in the amount of \$6,130 outside of the disclosure system required of candidates for county office.

• 06-90: Sean Fitzgerald, Peabody. Did not comply. (Disclosure of campaign finance activity) 01/05/07. A candidate failed to disclose in-kind contributions for sign frames provided to his campaign.

• 06-80: Sen. Jarrett Barrios, Cambridge. Did not comply. (Solicitation of contributions in a public building) 01/08/07. A speaker at a rally in a public school gymnasium made statements soliciting political contributions. Such a building is "occupied for municipal purposes," even on the weekend, and is therefore subject to the Section 14 restriction at all times.

• 06-95: Schooltruths.com, Middleton. Did not comply. (Disclosure by ballot question committee) 02/02/07. A group opposed to a proposed override failed to organize as a ballot question committee and file the required disclosure reports.

• 06-85: Berkshire Brigades PAC, Pittsfield. Did not comply. (Corporate contribution to candidate) 02/06/06. A corporation provided the free use of a room for a candidate event that was hosted by a PAC. Corporations may not provide any goods or services free of charge to candidates. The PAC was advised to make a payment to the corporation for the use of the facility.

A reminder: Filing deadlines for town elections

With the majority of towns in the Commonwealth holding their annual elections in the spring, a few thousand candidates and committees will be filing campaign finance reports in the next few months.

All reports are filed with the local election official, which in most cases is the town clerk.

Campaign finance reports are due eight days before the election and 30 days after the election.

In those towns that have preliminary elections, a report is also due eight days before that election.

Reports must be filed by all candidates, even those who raised and spent no money. Such candidates state that they had no activity by completing the Form M 102 or simply signing the M 102-0 form.

A common error by local candidates is failing to report their own out-of-pocket expenditures for their campaigns. Such expenditures must be included in a campaign finance report in the following manner: the expenditure is included on Schedule B and an identical amount is included on Schedule A as a contribution from the candidate.

Failing to report a candidate's personal contribution to correspond with an expenditure could result in a negative balance on a report.

Local candidates are advised to contact OCPF or their local election official if they have any questions about completing their campaign finance reports.



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