

# OCPF Reports



## About this Edition

### Campaign finance changes effective Jan. 1, 2010

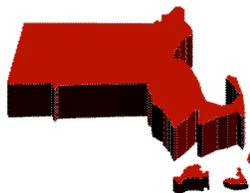
If you're reading this, you probably know that the campaign finance law has been significantly changed, but you may not know the details. This special edition of the OCPF newsletter is our initial attempt at educating those affected by the changes.

We hope to explain how the revisions affect various candidates, political committees, individuals, groups and businesses. The index below directs readers

to the sections of the law they might be interested in reviewing.

On our end, we are revising our publications, Web site and electronic filing system to accommodate the changes.

We hope this special edition is helpful and we encourage you to call us with any questions. Your inquiries can only help us as we endeavor to implement the law.



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[www.mass.gov/ocpf](http://www.mass.gov/ocpf)  
OCPF: 617-979-8300

## Legislative Candidates

### House, Senate to file more frequently, disclose late campaign donations

Legislative candidates currently file three campaign finance reports in election years, but only one in non-election years — a year-end report that discloses all activity for the calendar year.

The 12-month period between reports in off election years has now been reduced to six. In odd-numbered years starting in 2011, legislative candidates will file mid-year reports in July that disclose campaign finance activity for the first six months of the year.

The requirement includes all candidate committees organized to run for House or

Senate seats, even if they are not currently serving in the legislature.

#### Late Contributions

Legislative candidates who receive and deposit contributions of \$500 or more within 18 days of a primary or general election will now disclose them electronically within 72 hours to OCPF.

More than 30 state campaign finance agencies nationwide, as well as the Federal Election Commission, require the disclosure of large contributions made just before an election, adding a new

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## Local Election Officials

Local officials have significant role in implementing new law

The primary purpose of the campaign finance law is to provide public disclosure of money raised and expenditures made to influence Massachusetts elections, with the goal of transparency in the electoral process.

Local election officials, already the conduits of disclosure on the local level, will see that role evolve under the new campaign finance law changes.

#### Posting Reports

Local election officials will begin the procedure of scanning and posting all campaign finance reports on municipal Web sites within 30 days of a filing deadline if \$1,000 is raised or spent in a reporting period.

This requirement is mandated only if the town or city hosts a municipal Web site. Election officials also have the option to post all reports, even if the \$1,000

threshold is not reached.

#### Mayoral Reporting

Mayoral candidates in cities with populations between 40,000 and 100,000 will begin reporting electronically with OCPF if they can reasonably expect to raise or spend more than \$5,000 in an election cycle (most cities have two-year election cycles, though some have four).

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# New law: local election officials

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Mayoral candidates in more than 20 communities will start filing with OCPF, according to the 2000 Federal Census.

Election officials in the qualifying cities will still be asked to accept committee organizational forms — M101s — from mayoral candidates and forward them to OCPF.

The first report filed with OCPF will be the 2010 year-end report, due Jan. 20, 2011.

## Record Retention

City and town clerks will be required to retain campaign finance filings for six years after an election (the retention period ends on Dec. 31 of the sixth year). Any other campaign finance reports filed with clerks must also be retained for six years. The current law requires clerks to save documents only for the term of office sought. This requirement now mirrors the retention schedule at the state level.

## Ballot Question Reports

Any individual who makes expenditures independent from a ballot question committee of \$250 or more to support or oppose a local ballot question will be re-

quired to file disclosure reports (M22 forms) with local election officials. The current law does not require individuals to disclose such expenditures on M22 forms.

These direct expenditures by individuals differ from contributions made by individuals directly to organized ballot question campaign committees. In those instances, the ballot question committee is required to report the name and address of anyone who gives more than \$50, but no report needs to be filed by the contributor.

## Independent Expenditures

Individuals or organizations that make independent expenditures supporting or opposing candidates in a local election will file disclosure reports with town or city election officials if the aggregate amount exceeds \$250 in a calendar year. These expenditures are reported on 18A forms, which are available on the OCPF Web site, and are filed with the local election official within seven business days after the goods or services are utilized to advocate for the election or defeat of a clearly identified candidate. If independent expenditures are made within 10 days of an election, preliminary 18A reports must be filed with local election officials within 24 hours. Please see page 8 for additional information.

## Late Fines

The penalty for filing late campaign finance reports

will increase from \$10 per day to \$25 per day, with the maximum penalty going from \$2,500 to \$5,000.

## Corporate Contributions

Limited liability companies and partnerships will be prohibited from contributing to candidates, political party committees and PACs starting in 2010. A change to the statute also codifies OCPF's longstanding advice prohibiting contributions by professional corporations. Currently, LLCs and partnerships can contribute if the donation is attributed to a partner or member of the company. Please see page 8 for further information on corporate contributions.

## Electioneering Communications

Groups and individuals will begin filing electioneering communication reports with local election officials for activity at the local level. Electioneering communications are communications that discuss an issue and identify a candidate within 90 days of an election but do not expressly ask the voter to support or oppose the candidate in an election. These communications are also called issue ads. These reports will be filed on paper with local election officials by the group or individual making the expenditure, not the candidate, if the cost is greater than \$250. The reports will be filed within seven days after making the expenditure, stating the name and address of the individual, group or association making the elec-

tioning communication, the name of any candidate clearly identified in the communication, the total value of the communication, the name and address of the vendor to whom the payments were made, and the purpose and date of the expenditure.

Please see page five for more information on electioneering communications.

## Referral to OCPF

The change to Section 29 of the campaign finance law now directs city and town clerks to refer violations of the campaign finance law to the director of OCPF, rather than the Attorney General.

## Cities where mayoral candidates will file on-line with OCPF\*

City	Population: 2000 Census
Brockton	94,430
New Bedford	93,869
Fall River	92,097
Lynn	89,190
Quincy	88,232
Newton	83,924
Somerville	77,632
Lawrence	72,131
Waltham	59,278
Haverhill	59,123
Malden	56,386
Taunton	56,093
Medford	55,649
Chicopee	54,674
Weymouth	54,020
Peabody	48,325
Revere	47,726
Pittsfield	45,702
Methuen	43,918
Attleboro	42,211
Leominster	41,398
Salem	40,566
Westfield	40,116

\* Mayoral candidates in Boston, Springfield and Worcester already file with OCPF.

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# SUMMARY OF LAW CHANGES

**Gov. Deval Patrick signed the Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying on July 1. The changes to MGL Chapter 55 take effect Jan. 1, 2010. The following is a summary of the campaign finance portion of the bill:**

**Definition change:**

Amends Section 1 by inserting a definition for the term “clearly identified candidate” as a candidate whose name, photo or image appears in a communication or a candidate who is referenced in a communication.

**Definition change:**

Amends Section 1 by inserting a definition for the term “electioneering communication” as a publicly distributed communication about a clearly identified candidate within 90 days of an election.

**Definition change:**

Amends Section 1 by inserting a definition for the term “independent expenditure” as an expenditure or liability incurred by a group, individual or association expressly advocating for the election or defeat of a certain candidate without the cooperation or consultation of the candidate or the candidate’s campaign.

**Ineligibility for state ballot:**

Amends Section 3 to prohibit the name of a candidate who fails to file any statement or report with OCPF after receiving notice, and who continues to fail to file such statement or report after the institution of civil proceedings, from appearing on a state ballot after the institution of such civil proceedings until such time as the statement or report is filed.

**Investigatory:** Amends Section 3 to allow the di-

rector of OCPF to inform any person or committee under investigation by personal delivery of a notice at the person’s last and usual place of residence, or by delivering a copy of the notice to an attorney who has appeared on behalf of the alleged violator.

**Referral to the Attorney General:**

Amends Section 3 to allow the director of OCPF to refer campaign finance violations to the Attorney General up to 120 days prior to an election or within three years after the relevant election.

**Late fines:**

Amends Section 3 to increase the penalties for late filed reports from \$10 per day up to a maximum of \$2,500 to \$25 per day up to \$5,000.

**Correspondence in the public file:**

Amends Section 3 to preclude the director of OCPF from disclosing publicly any correspondence or communication to a candidate, political committee, or ballot question committee which contains a deadline for response until the deadline has passed or until the director has received a response, whichever is earlier.

**Expenditure restriction:**

Amends Section 5 to preclude anyone authorized to make an expenditure for a political committee from signing a committee check payable to himself or herself.

**Prohibited use of funds:**

Amends Section 6 to prohibit the use of campaign funds for the payment of fines and penalties incurred for a violation of state ethics laws.

**Corporate contributions:**

Amends Section 8 to clarify that professional corporations, partnerships and limited liability companies are not permitted to make

political donations to candidates, PACs or party committees. Contributions to ballot question committees are permitted.

**Special committees:**

Amends Section 10A to eliminate special committees between candidates and party committees.

**Mayoral reporting:**

Amends Section 18 to require candidates for mayor in cities with populations between 40,000 to 100,000, who can reasonably expect to raise or spend more than \$5,000, to file electronic reports with OCPF.

**Summer reports:**

Amends Section 18 to require legislative candidates and PACs that file with OCPF to file mid-year campaign finance reports in July of non-election years.

**Additional reporting:**

Amends Section 18 to require all depository candidates to disclose any savings account activity at the end of each year, and requires political committees and ballot question committees to disclose all late, large contributions received. Municipal level committees are not required to file these reports.

**Executive Council nominations:**

Amends Section 18 to require individuals confirmed by the Governor’s Council to dissolve any campaign accounts within six months of confirmation.

**Independent expenditures:**

Requires reporting of independent expenditures, if the expenditure is greater than \$250, within seven business days. Late independent expenditures made within 10 days of an election must be disclosed within 24 hours if it is an aggregate of \$250 or more.

Continued on Page 4

## Ward, Town, City Party Committees

**Reimbursements**

No person who is authorized to make expenditures for the party committee can sign a committee check payable to himself or herself.

**Special Committees**

The statute that allowed a special committee to host joint fundraisers between candidates and party committees was eliminated in the new campaign finance bill.

Ward, town and city political parties are still able to have joint fundraising events



with candidates, so long as the costs of the event are split and contributions are received on separate checks — up to \$500 for the candidate and up to \$5,000 for the party committee.



The contributions would be reported separately by the candidate and the party committee on standard campaign finance reports.

# Continued: law change summary

Continued from Page 3

## Electronic reporting:

Amends Section 18C to require the following committees and individuals to file reports electronically:

- All candidates and political committees that file with OCPF which receive and deposit contributions of \$500 or more after the eighteenth day, but more than 72 hours before the date of a special, preliminary, primary or general election.
- Every state party committee that receives a contribution of \$500 or more after the eighteenth day, but more than 24 hours, before the date of a special, preliminary, primary or general election, within 72 hours of depositing such contribution.
- For every political committee required to file campaign finance reports electronically with the director, any reports filed to disclose expenditures by vendors of the committee to sub-vendors.
- An individual, group, association or political committee that is required to file a report of independent expenditures with the director.
- Each candidate's committee organized on behalf of a candidate for mayor in a municipality with a total population of 40,000 to 100,000, if the committee, during the election cycle, can reasonably expect to raise or spend more than \$5,000.
- Every individual, group or association (that files with OCPF) that makes an independent expenditure or electioneering communication expenditure in an aggregate

amount exceeding \$250 during any calendar year.

## Sub-vendor reporting:

Newly added Section 18D requires that vendors report to candidates their subsequent expenditures to sub-vendors, subject to dollar limits. See page nine for more details.

## Legal defense, recount and inauguration funds:

Newly added Section 18E would require disclosure of donations to a legal defense, recount or inauguration fund.

## Electioneering communication:

Newly added Section 18F requires disclosure within seven business days by individuals, groups or associations not defined as political committees who make electioneering communication expenditures, in an aggregate amount exceeding \$250, within 90 days of an election. Please see page five for additional information.

## City council candidates:

Amends Section 19 to require at-large, district and ward candidates for city council in cities with populations over 100,000 to designate a financial institution as a depository for campaign funds and report to OCPF.

## Late reporting:

Amends Section 19 to require depository candidates and committees who receive late contributions of \$500 or more within 18 days of an election to report such contributions to OCPF electronically within 72 hours.

## Ballot question expenditure:

Amends Section 22 to require any person who makes an expenditure of \$250 or more or incurs a liability of \$250 or more to influence or affect the vote

on any question submitted to the voters to file reports setting forth the amount or value of the expenditure or liability, together with the date, purpose and full name of the person to whom the expenditure was made or the liability was incurred.

**Record retention:** Amends Section 26 to require the city or town clerk to retain all statements and reports required to be filed with the office until December 31st of the sixth year following the relevant election.

**Posting municipal campaign finance reports:** Amends Section 26 to require that, within 30 days after the

filing deadline, all campaign finance reports required to be filed with the city or town clerk shall be made available for viewing on the Web site of the municipality if the report discloses that a candidate or committee filing a report has received contributions or made expenditures in excess of \$1,000 during a reporting period or incurred liabilities or acquired or disposed of assets in excess of \$1,000 during a reporting period.

## Municipal referral:

Amends Section 29 to authorize the director of OCPF to refer local matters to the Attorney General.

## 'Yes, we're available'

Campaign finance seminars are available for municipalities, political committees and other groups involved in Massachusetts politics.

Please call our office to schedule a seminar: 617-979-8300.



# Electioneering Communications

## Law seeks transparency for issue ads

Each state election cycle, groups and individuals spend money distributing information to voters, often on fliers sent in the mail, which comment on, but do not directly support or oppose, candidates and various issues. These communications all have two things in common — they never directly ask the targeted audience to vote a certain way, and the costs of the communications are not publicly disclosed.

Starting in 2010, the campaign finance law will require individuals and groups to disclose the money they spend on electioneering communications. Currently, it is unknown how much money is spent on such communica-

tions.

Electioneering communications are any communications — mailings, newspaper advertisements, posters, television and radio spots — that clearly identify a candidate within 90 days of an election, but do not suggest that the recipient vote for or against that person at the polls. Such communications focus on issues, rather than expressly advocating for or against the election of a candidate. For example, a flier may say, "John Doe cares about public safety." Mr. Doe is on the ballot, but the flier never asks the reader to vote for him.

Candidates do not file electioneering communication

campaign finance reports. The reports will be filed electronically by the group or individual making the expenditure if the cost is greater than \$250. The reports will be filed within seven days after making the expenditure, stating the name and address of the individual, group or association making the electioneering communication, the name of any candidate clearly identified in the communication, the total value of the communication, the name and address of the vendor to whom the payments were made, and the purpose and date of the expenditure.

The new statute also requires the filing of disclosure reports within 48 hours for electioneering communication expenditures that are made within seven days of an election, if the aggregate amount of the expenditure is \$1,000 or more.

OCPF is in the process of writing the software to allow for the reporting and disclosure of electioneering communications. Please call or check our Web site for updates prior to the 2010 elections. If electioneering communications identify municipal candidates who do not file with OCPF, the reports are filed on paper with the local election officials.

It is important to note that the new law does not ban electioneering communications, it only requires disclosure of the costs — for the first time in the history of Massachusetts elections.

### **Applies to all Political Committees**

No person authorized to sign campaign checks can sign a check to himself or herself, including candidates.

Reimbursement checks made out to a person should be signed by another individual.

## George Washington

He supports free public education for children of all economic backgrounds.



He cares about your children.

He cares about America.

**The above flier is an electioneering communication, if distributed within 90 days of an election, because it does not expressly advocate for the election or defeat of a specific candidate at the polls. There are no words that say: "vote for" or "elect" or the equivalent.**

## Continued: Legislative Candidates

### Continued from Page 1

level of transparency to the electoral process.

The electronic filing software for such reports will be ready prior to the 2010 primary elections.

### Sub-vendor Reporting

Some campaigns spend large sums to hire political consultants, but the public never sees how some of that money may be subsequently spent by the consultant for political purposes. The new law requires consultants and vendors to disclose to the candidate how they spent money, but only if the payments to the vendor from the campaign exceed \$5,000 a year, and the payments to sub-vendors from the vendors exceed \$500 a year.



The campaign, using the information provided to it by the vendors, will disclose the information on regular campaign finance reports (three times in an election year, and twice in odd-numbered years). This statute is addressed in more detail on page 9.

### No Checks to Self

No person authorized to sign checks for a campaign committee will be able to write reimbursement checks to himself or herself. To reimburse a person, including the candidate, for out-of-pocket campaign expenditures, another authorized person must now write the check.

### Corporate Contributions

Starting Jan. 1, limited liability companies and partnerships will be prohibited from contributing to candi-

dates. A change to the statute also codifies OCPF's longstanding advice prohibiting contributions by professional corporations. Sole proprietorships are still able to contribute, so long as the contribution is attributed to the owner.

### Late Reports

The penalty for filing late campaign finance reports will increase from \$10 per day to \$25 per day, with a maximum penalty of \$5,000.

### Attorney General Referrals

Alleged violations of the campaign finance law can now be referred to the Attorney General within three years of a relevant election, an increase of one year from the current statute. The new law also permits OCPF to refer matters to the Attorney General up until 120 days of

an election. The current law prohibits OCPF from referring matters to the Attorney General until after the relevant election.

### Correspondence Embargo

Letters from OCPF to candidates that contain deadlines for a response will not be public until the candidate has responded or the deadline for response passes, whichever comes first. Currently, all OCPF audit letters are placed in the public file when they are issued.

### Ballot Disqualification

State and county candidates who fail to file campaign finance reports will be disqualified from appearing on a future state ballot if the delinquent reports are not filed prior to the deadline for returning nomination papers with the Secretary of State, subject to civil proceedings as outlined in Section 3 of MGL Chapter 55.

# Candidates for Mayor

Will file with OCPF in cities with pop. between 40,000 and 100,000

Campaign finance reports for many mayoral candidates will now be available on the World Wide Web.

Mayoral candidates in cities between 40,000 and 100,000 (based on the 2000 federal census) will file electronically with OCPF, and candidates for mayor in cities with populations of less than 40,000 will continue to file paper reports with local election officials, who will then post the reports on their respective municipal Web sites.

The 40,000 to 100,000 population threshold for filing electronically with

OCPF qualifies more than 20 communities (see the list on page 2). The candidates are required to file with OCPF if they can reasonably be expected to raise or spend \$5,000 in two or four-year election cycles. If candidates do not reach the \$5,000 threshold they can still file with OCPF, or they can file paper forms with the local election official. In most cities, the first report to be filed with OCPF will be the 2010 year-end report due Jan. 20, 2011.

The \$5,000 threshold is not a significant ceiling in Massachusetts mayoral elections. In 2007, the spending median for 69 mayoral candidates across

the state in the November elections was \$25,339. The 2005 medians were higher at \$27,621.

Mayoral candidates in cities with populations below 40,000 will continue to file paper reports with local election officials. If candidates exceed \$1,000 in activity in a reporting period, the report must be posted on the municipal Web site within 30 days of the reporting deadline.

Mayoral candidates in Boston, Springfield and Worcester already file with OCPF. Those cities have populations greater than 100,000.

# City Councilors

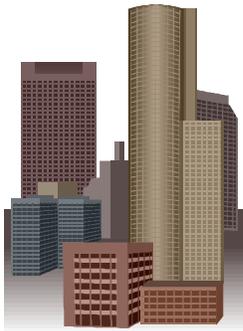
District, ward councilors in cities over 100,000 will file with OCPF

Starting in January 2010, district and ward council candidates in cities with populations of more than 100,000 will start filing electronic campaign finance reports with OCPF rather than paper reports with their local election officials.

This change puts them on par with at-large council candidates, who already report with OCPF in the depository system — where the banks report expenditures to OCPF regularly, and the candidate reports receipts as they make deposits. All of

the information is displayed within the OCPF Electronic Filing System at [www.mass.gov/ocpf](http://www.mass.gov/ocpf). District and ward councilors will now enter the same depository system.

OCPF will provide seminars in each affected city before Jan. 1 to assist candidates with entering the new system.



## Late Contributions

All city council and mayoral candidates from the five largest cities will be required to report within 72 hours any contributions of \$500 or more that are deposited within 18 days of an election.

OCPF is currently in the process of writing software for reporting late contributions electronically.

## Check to Self

A change to the statute prohibits candidates and others from writing checks to themselves from campaign accounts. The prohibition extends to campaign treasurers and anyone who has authorization to write checks.

## Corporate Contributions

Starting Jan. 1, 2010, limited liability companies and business partnerships will be prohibited from contributing to candidates. Sole proprietorships are still able to contribute, so long as the contribution is attributed to the owner, not the business. Professional corpora-

tions are also prohibited from contributing to candidate campaigns directly or indirectly.

## Savings Accounts

Candidates with committee savings accounts will be required to summarize any activity in those accounts on the year-end report, which is due on Jan. 20.

OCPF is writing software to disclose savings account information in time for year-end reports due Jan. 20, 2011.

## Sub-Vendor Reporting

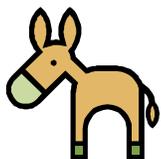
City council candidates will report how consultants and other vendors spend their campaign money. Please see page 9 for a further explanation of the new statute.

## Late Reports

Fines are increasing to \$25 per day up to \$5,000, up from \$10 per day up to \$2,500.

# State Party Committees

The statute that allowed a candidate and a party committee to form a special committee to host fundraisers — allowing an individual to give \$5,500 to the special committee — was eliminated in the new campaign finance bill.



State political parties can still hold joint fundraising events with candidates, so long as the costs of the event are split and contributions are received on separate checks — up to \$500 for the candidate and up to \$5,000 for the state party committee.

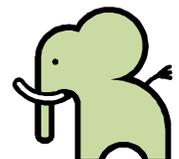
The contributions would be reported separately by the candidate and the party committee on standard campaign finance reports.

## Late Contributions

State party committees will report within 72 hours any contributions of \$500 or more that are received and deposited within 18 days of an election. OCPF is writing software to allow committees to file these late reports electronically prior to the 2010 state election.

## Sub-Vendor Reporting

State party committees will also have to report how consultants and other vendors spend their campaign money. Please see page 9 for a further explanation of the new statute.



# Independent Expenditures

Independent expenditure reports will be subject to more timely public disclosure under the new campaign finance law.

Starting Jan. 1, 2010, independent expenditures of more than \$250 that are

made within 10 days of an election must be disclosed in a preliminary report filed within 24 hours that will show how the money was spent and who the expenditure supported or opposed. A final report would then be filed within seven business days. Previously, independent expenditures made close to election day only had to be reported within seven business days.

Independent expenditures of \$250 or more made outside the 10-day election window are still reported in full within seven business days.

An independent expenditure is money spent by an individual, group or association for goods or services that expressly advocate the election or defeat of a clearly identified candidate. They are made without cooperation or consultation with any candidate, and are therefore not subject to statu-

tory contribution limits. The public disclosure requirement is triggered when an individual, group or association makes an independent expenditure in an aggregate amount exceeding \$250 dur-

ing any calendar year — \$150 greater than the previous threshold.

Independent expenditures account for a significant amount of campaign finance activity in the state — \$500,000 in the 2008 legislative elections, and \$4 million in the statewide election in 2006, which included candidates for governor. Nearly all independent expenditures in the 2006 and 2008 state elections were made by labor unions. Corporations are prohibited from making independent expenditures.

On the local level, if independent expenditures are made concerning municipal elections, the required reports would be filed with city or town election officials. The appropriate paper disclosure forms are available on the OCPF Web site for independent expenditures made on the municipal level.

## Case Study

A labor union, Brotherhood of Massachusetts Widget Makers, backs John Doe for state representative and wants to make their endorsement public. Five days before the election, the union's general fund makes an independent expenditure, paying a print shop to make 1,000 post cards advocating for the election of John Doe. The post cards are mailed to 1,000 registered voters. The printing and mailing costs \$1,000. What are the union's reporting requirements?

1. Within 24 hours after the cards are mailed, the union will file a preliminary report with OCPF disclosing the name and address of the union, the name of the candidate, the print shop's name and address, and the purpose of the expenditure.
2. Within seven business days of mailing the card, a final report will be filed to disclose the amount of money spent on the mailing.

## Governor's Council Nominees

Candidates with existing campaign committees must disgorge their campaign accounts and dissolve their committees if they have been nominated to a position by the governor and confirmed by the Executive Council (Governor's Council).

The new statute, added to Section 18 of Chapter 55, requires nominees with campaign accounts to dissolve their campaign bank accounts within six months of confirmation. The Executive Council confirms judicial officers, among other duties. Nominees with residual campaign funds can disgorge the money by donating the funds to the following entities:



- The state's General Fund.
- The general fund of a municipality.
- A charity, so long as the candidate or any official of the political committee is not a family relation to any trustee, officer, principal or beneficiary of the charity at the time or within 10 years from the date of the gift.
- A scholarship fund, provided the candidate or any official of the campaign does not participate in the selection of any scholarship winners.

# Corporations and Businesses

It's one of the oldest campaign finance statutes in Massachusetts — prohibitions on business corporations from making campaign contributions to candidates and other political committees, other than ballot question committees.

But the current statute did not expressly prohibit a similar prohibition for limited liability companies and partnerships. It does now. Starting Jan. 1, 2010, LLCs and partnerships

will no longer be able to contribute to candidates, PACs and party committees. Previously, an LLC or partnership could contribute to a candidate if the donation was attributed to an individual member of the business.

The statute does not prohibit the individuals who own or run corporations, LLCs or partnerships from making contributions from their personal funds. The ban only prohibits money from the

general funds of business corporations, LLCs and partnerships from being contributed, directly or indirectly.

So what does "indirectly" mean? If a corporation, LLC or partnership funds a non-profit organization, the non-profit would be similarly prohibited from contributing to candidates or making independent expenditures in support or opposition to a candidate.

# Campaign Consultants

## Requires public disclosure of sub-vendor expenditures

Among the most significant additions to the campaign finance law is the new requirement that political committees disclose how their consultants and vendors make expenditures on behalf of the committees.

This extra layer of disclosure enhances the campaign finance law's primary function of transparency in elections.



The sub-vendor reporting requirement — Section 18D of Chapter 55 — requires vendors who receive \$5,000 or more from a campaign to report subsequent expenditures of \$500 or more that they make to sub-vendors who provide goods or services to a vendor or the campaign. The sub-vendor reports will be filed electronically by the committees based on infor-

mation provided by the vendor.

All political committees required to file with OCPF are covered by the sub-vendor disclosure statute. State legislative candidates, political action committees and mayoral candidates in cities between 40,000 and 100,000, will file reports according to the schedule for regular campaign finance reports.

All "depository" candidates and committees — statewide, state party committees, county and municipal — will file reports by the fifth of each month covering the previous month.

Ballot question committees will report sub-vendor information according to their regular reporting schedule.

### Text of the Statute

#### MGL Chapter 55, Section 18D

Section 18D. (a) For the purpose of this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

•Expenditure•, any payment made or liability incurred by a vendor on behalf of a political committee.

•Person•, a natural person, corporation, association, partnership or other legal entity.

•Sub-vendor•, a person providing goods or services to a vendor or who contracts with a vendor to provide goods or services to a committee.

•Vendor•, any person including, but not limited to, a consultant, who provides goods or services to a political committee that files with the director and either receives or is promised \$5,000 or more in the aggregate during a calendar year by the committee for such goods or services, or contracts with another on behalf of the committee for such goods or services valued at \$5,000 or more in the aggregate to be provided to the committee.

(b) A vendor that makes an expenditure on behalf of a political committee shall within 5 days of making such expenditure provide the political committee with a detailed account of the expenditure including,

but not limited to, the date of the expenditure, the person who received payment, the full name and address of the sub-vendor, the purpose of the expenditure, and the amount of the expenditure.

(c) A political committee that makes a payment to a vendor or incurs a liability to a vendor shall file reports with the director disclosing the full name and address, listed alphabetically, of each sub-vendor receiving payments of more than \$500 in the aggregate during a calendar year from the vendor, and of each sub-vendor to whom a liability of more than \$500 was incurred. The contents of such report shall include the information required by section 18 and shall be disclosed on a form prescribed by the director. For committees required to designate a depository account under section 19, the reports shall be filed on or before the fifth day of each month covering the preceding month; provided, however, that for other committees, the report must be filed in accordance with the schedule established by section 18.

(d) Vendors shall keep detailed accounts of all expenditures made on behalf of political committees.

## Political Action Committees

### PACs are included in mandatory mid-year reporting statute

Political action committees will begin filing mid-year campaign finance reports in odd-numbered years starting in 2011. The report will cover activity from Jan. 1 to June 30 and will be due on July 20.

#### Sub-vendor Reporting

As discussed in the story above, vendors and consultants who receive payments of \$5,000 or more from a PAC must disclose to the PAC how the money was spent if the total paid to a sub-vendor exceeds \$500 in a calendar year. The vendor will report its expenditures of \$500 or more to the PAC,

who will then disclose the information on the regular campaign finance report schedule (three times in state election years, and twice in odd-numbered years).

#### Late Contributions

PACs are not included in the new requirement that candidates, state political party committees and ballot question committees file special reports within 72 hours for contributions of \$500 or more that are made within 18 days of an election.

#### Late Fines

PAC treasurers can be personally fined

\$25 per day up to \$5,000 for filing late campaign finance reports. The current penalty is \$10 daily up to \$2,500.

#### Reimbursements

No person who is authorized to make expenditures for the committee can sign a committee check payable to himself or herself.

#### Posting Reports

Campaign finance reports by municipal PACs that disclose more than \$1,000 in activity during a reporting period will be posted by local election officials to the city or town Web sites where the PACs are organized.

# Legal Defense, Recount & Inauguration Funds

## Normal contribution limits do not apply

The new legal defense, recount and inauguration portion of the campaign finance law — Section 18E — will require candidates to disclose who donates money for those purposes.

The statute allows candidates to raise money to defend themselves against a criminal matter, to pay costs associated with a civil matter that is not primarily personal in nature, and to fund legal costs associated with a recount.

It also allows candidates to raise money to pay for inaugural events.

The money raised should be kept separate from the candidate's campaign fund, with some additional restrictions.

- Assets of the political committee may not be used by the fund.
- Donations to the fund shall not be used to benefit a

political committee.

- All donations to legal defense, recount and inauguration funds will be disclosed to the public — reports will be filed with OCPF by any candidates who are required to file regular campaign finance reports with the office, and with local election officials by other candidates.

The reports will be filed on or before the fifth day of the month following the month in which donations are received. The reports will include the name and address of all donors who give more than \$50, the amount of each donation, the employer of the donor and the total amount of donations received.

Donations include any in-kind contributions and loans.

# Ballot Question Committees

## Individuals will be required to report spending on BQs

New legislation requires any individual who spends money or incurs a liability of \$250 or more to directly support or oppose a ballot question to file a report disclosing the activity.

Under the current statute, individuals can make unlimited expenditures to influence a ballot question without having to report that financial activity to the public.

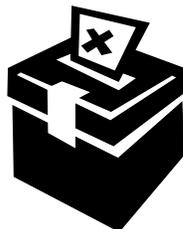
An individual who exceeds the \$250 limit concerning a state question will file a CPF 22 form with OCPF. Individuals who make expenditures on ballot questions at the local level will file an M22 form with the town or city election official.

The requirement to file CPF 22 forms

does not include direct contributions that individuals make to organized ballot question committees, since the ballot question committee reports the receipts on its campaign finance reports.

### Sub-vendor Reporting

Ballot question committees are required to disclose sub-vendor information on the regular reporting schedule. Committees that pay \$5,000 or more in a calendar year to a consultant or other vendor must disclose how that money was spent, if any subsequent amount paid to a sub-vendor is \$500 or more. The vendor must provide that information to the ballot question committee within five days. Please see page nine for more information.



### Filing Fines

The penalty for filing late reports was increased to \$25 per day up to \$5,000 from \$10 per day up to \$2,500.

### Late Contributions

Statewide ballot question committees that receive and deposit contributions of \$500 or more within 18 days of an election must file disclosure reports with OCPF within 72 hours.

OCPF is in the process of writing software for late contribution reports, which will be available prior to the 2010 state election.

### Reimbursements

No person who is authorized to make expenditures for the committee can sign a committee check payable to himself or herself.

# Statewide, County, Mayor

## The new law as it affects depository candidates statewide

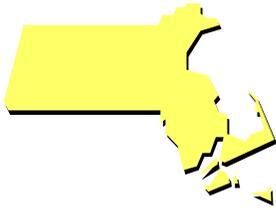
Statewide candidates for governor, lieutenant governor, attorney general, secretary of state, auditor and treasurer, county candidates such as sheriff and district attorney, and mayoral candidates in cities with populations greater than 100,000, will follow the campaign finance law changes described in this section.

### Special Committees

Candidates can no longer create special fundraising committees with political party committees. Joint fundraising events between political parties and candidates are still permitted, however. Attendees can write out separate checks — up to \$500 to the candidate and up to \$5,000 to the state or local party committee. Under the current law, one check could be written to the special committee. Please see page seven for further information.

### Savings Account Information

All activity in a campaign's savings or money market account — transfers in and out, interest earned and balances — will be reported on year-end campaign finance reports due in January each year.



### Late Contributions

Any contribution of \$500 or more that is received and deposited within 18 days of an election must be disclosed within 72 hours of deposit.

### Late Reports

Fines for the filing of late reports are now \$25 per day up to \$5,000, an increase from \$10 per day up to \$2,500.

### Sub-Vendor Reporting

The newly created sub-vendor reporting requirement — Section 18D of Chapter 55 — requires vendors who receive \$5,000 or more from a candidate to report their subsequent expenditures of \$500 or more to sub-vendors who provide goods or services to a vendor or the campaign.

The sub-vendor reports will be filed electronically by candidates based on information provided by the vendor.

All depository candidates will file sub-vendor reports by the fifth of each month covering the previous month. Please see page nine for further information.

### Inauguration, Recount and Legal Funds

The new inauguration, recount and legal defense fund portion of the campaign finance law — Section 18E — allows candidates to raise money for inauguration events and legal matters without the restrictions of the \$500-per-individual contribution limit.

The money raised should be kept separate from the candidate's campaign fund, with additional restrictions — assets of the political committee may not be used by the fund; any donations received by the fund shall not be deposited into the candidate's campaign account; and donations to the fund shall not be used to benefit a political committee.

All donations to these funds will be filed with OCPF and disclosed to the public. The reports will be filed on or before the fifth day of the month following the month in which donations are received. The reports include the name and address of all donors who give more than \$50, the amount of each donation, the donor's employer and the total amount of the donation. Please see page 10 for further information.

Donations include in-kind contributions and loans.

## Referral of a Matter to the AG

The new law creates more flexibility for OCPF to refer matters to the Attorney General for possible criminal or civil proceedings.

Starting in 2010, cases can be referred to the Attorney General for up to three years after the relevant election. The current law sets the window at two years.

The new law also allows OCPF to refer cases to the Attorney General any

time prior to an election, so long as it is not within 120 days of an election. Current law mandates that OCPF wait until after the relevant election to refer a matter.

If there is no relevant election that relates to a violation of the law, the new statute will permit OCPF to refer a case for up to three years after the alleged violation.

This revision to the campaign finance

law enhances the ability of OCPF to resolve matters in a timely manner. For example, if an incumbent candidate violates the campaign finance law in the first year of a four-year term, OCPF can immediately refer the case to the Attorney General, according to the revised law. Under the current statute, OCPF would be required to wait three years or more until the relevant election occurs before the case can be referred.