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Common Cause Massachusetts

Accountability in Decline

*Vanishing Competition in the
Massachusetts State Legislature*



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Accountability in Decline

Vanishing Competition in the Massachusetts State Legislature.

Introduction

In 2000, the *Boston Globe* concluded that “by almost every measure, the [Massachusetts] state Legislature today is an institution in steep decline.”¹ Respect for the legislature was dwindling among the public, where only one quarter of the state’s citizens trusted the state government to do the right thing most of the time.² There is little reason to believe that things have changed since that time. This highlights the need for qualified, competent legislators in the State House who are willing to change the status quo and bring overdue reforms.

Yet the legislature is experiencing a major problem: extremely low competition for seats. Competition for election to the State Senate and General Court in Massachusetts has long been low, and in spite of a spike in participation in 2004, the levels of electoral competition in 2006 suggest that the trend of decreasingly competitive elections has not reversed itself. In terms of both primary and general elections, incumbents are rarely challenged. Of those who are challenged, many are not seriously threatened, and very few ever lose.

Competitive elections are crucial for the health of our democracy. When incumbents are not challenged for office, voters have little chance to exercise control over those incumbents and less chance of seeing change in their governing institutions.

Although in many cases long serving legislators may be a sign of citizen satisfaction, there are other, more troubling factors which may, and often do, result in a lack of competition, and consequently a reduction in meaningful input by Massachusetts citizens in their state legislature.

This paper will attempt to explain why so few men and women run for office in Massachusetts, and identify some possible ways the state could work to improve its track record.

The Problem: Competition in the Legislature

Massachusetts lawmakers enjoy job security at levels nearly unmatched across the country. Once a legislator is voted into office, chances are very good that she will remain in office until she decides to leave. It is increasingly rare for sitting legislators to lose their seat to a challenger—or even to face any opposition at all.

This phenomenon holds true both in primary races and in general elections. In fact, in many elections throughout the state, no candidate even sought the nomination of the major party not in office.



Primary Elections

The major-party primary races in the last several years have seen little or no competition in Massachusetts. At the polls in the 2006 primaries, Massachusetts Democrats and Republicans were left with no choice for 89% of all nominations. In many cases when an incumbent chose to run for reelection, the opposing party failed to nominate any candidate whatsoever. In the 2006 election cycle, for example, there was no nominee in 142 of the 400 Democratic and Republican primaries. Democrats ran two or more candidates in 17% of primaries (see Figure 1), while Republicans did so in just five percent (see Figure 2). Of the remaining races, only 44, or 11% of the total, featured more than one candidate.³

Figure 1: 2006 Democratic Primaries

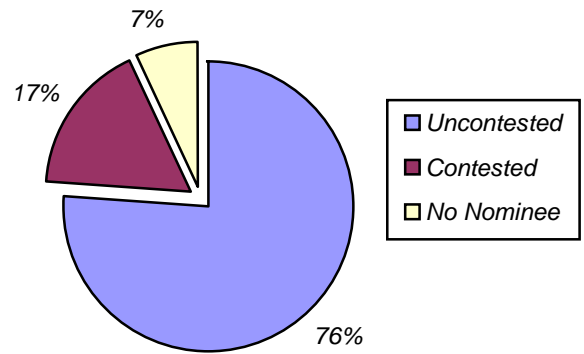
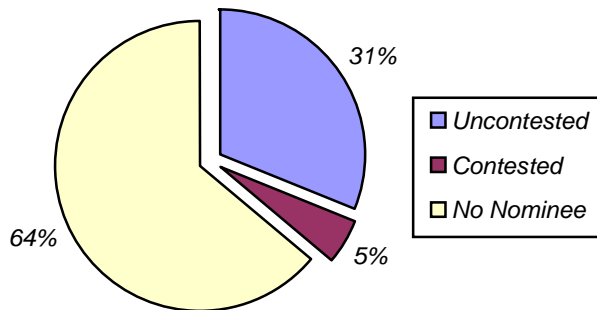


Figure 2: 2006 Republican Primaries



General Elections

State legislative races in Massachusetts remain among the least competitive in the country. Only 2 incumbent legislators who sought reelection lost their seats in 2006; 99 percent retained their seats. Massachusetts was one of 11 states in which fewer than half of all seats were even contested.⁴ Of the 200 seats in the legislature, only 75 were sought by more than one candidate in the 2006 general elections.⁵

Even in districts in which more than one candidate's name appeared on the ballot, few races were close. In all but 29 districts (5 in the State Senate and 24 in the General Court) one candidate received more than twice as many votes as her or his closest opponent.⁶

Competition in State Legislative elections has been far lower in recent elections than it was less than twenty years ago. In 1990 505 candidates ran for the 200 seats—by 2006 that number had shrunk to 339. Although there was a brief spike in campaign participation in 2002 and 2004, when Governor Romney made special effort to recruit new candidates, the overall trend remains discouraging (See Figure 4).

Figure 3: 2006 General Election

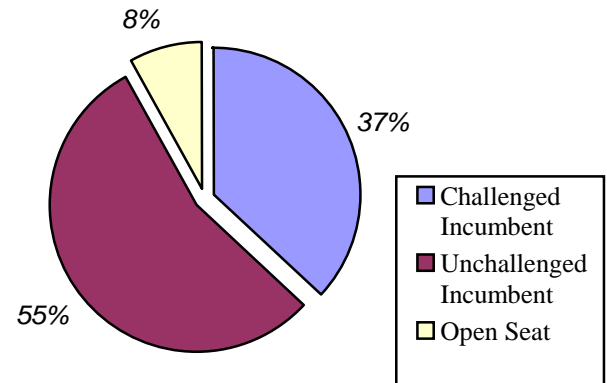
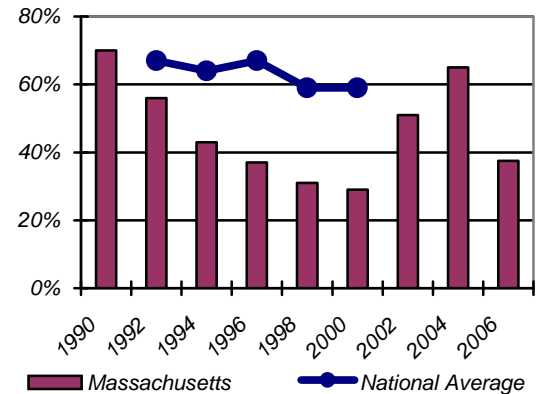


Figure 4: Competition in State Legislative Races





Assessing the Possible Causes

Low Win Rates

One major disincentive to seeking state legislative office in Massachusetts may be the futility of trying. In 2006 only one of the 74 general election challengers was able to defeat an incumbent – a success rate well under two percent. Similarly, only one primary challenger was able to unseat a sitting legislator. No challenger has won a seat in the State Senate since 1994.⁷ These low odds may prevent otherwise interested candidates from even attempting a run for office, and could explain the shrinking number of challenges detailed above.

In 2006 only two incumbents were defeated in the State House, and no challenger has defeated an incumbent in the State Senate since 2000.

While the high chance of failure helps explain why more candidates don't run for office in the state, it does not explain *why* it is so hard for non-incumbent contenders to upset sitting legislators who choose to keep their seats. The reason so few challengers win may be tied to the necessity of spending on campaigns, which may help explain why so few people run at all.

Campaign Spending

Once a challenger has decided to run for office, she must overcome the fundraising hurdle to run a viable campaign. Massachusetts has relatively strict contribution limits for political campaigns (see

below), but money is still a strong predictor of a candidate's success at the polls. Massachusetts candidates for the state house who raised more money than their opponents won 92.5% of the time in 2002, and 91.3% of the time in 2004—well above the national average (see Figure 5).⁸ Winning candidates for the state senate were even more likely to outspend their opponents—in 2002 every winning state senate candidate outspent her or his opponent, and in 2004 87.5% did so (see Figure 6).⁹

The cost of legislative races in the state is slowly increasing over time, raising barriers to citizens who would run for office. Compared with the rest of the country, it is relatively expensive to run a campaign in this state. Measured as dollars raised per voter, spending in legislative campaigns is lower in 27 states.¹⁰ According to data compiled by the National Institute on Money in State Politics, Massachusetts legislative candidates spent a total of \$8.56 per voter on their campaigns for office in 2006, up from \$7.15 per voter in 2000, remaining significantly higher than the median state per voter spending (see Figure 7). Since Massachusetts has a lower number of candidates than most states, this spending is even more significant. The increased expense in the Commonwealth may partially explain why competition is so low.

Figure 5: Percentage of Winning State House or Assembly Candidates Who Outspent Opponents

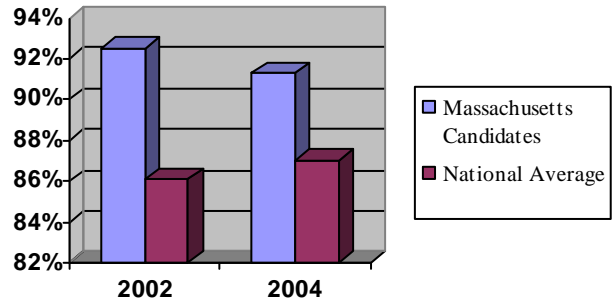


Figure 6: Percentage of Winning State Senate Candidates Who Outspent Opponents

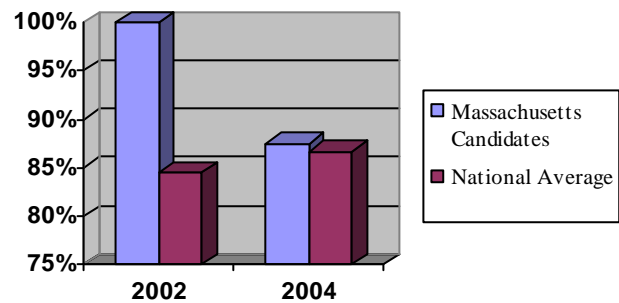
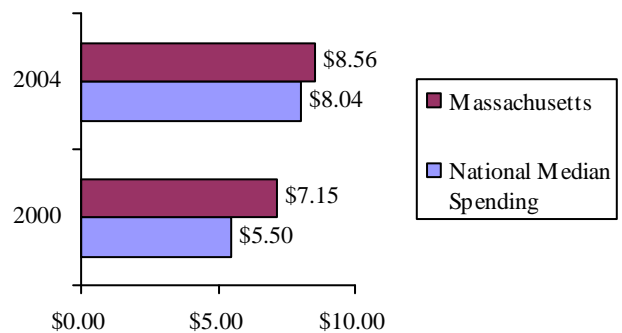


Figure 7: Per Voter Spending on Legislative Campaigns



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Successful candidates for both the State Senate and State House spend significantly more than their unsuccessful opponents.¹¹ The cost of successful state Senate races has increased over the last five election cycles (see Figure 8¹²). Even unopposed candidates spent heavily during the 2006 election cycle—with an average expenditure of \$91,203 they actually significantly exceeded the spending by opposed candidates—possibly discouraging potential challengers with this demonstration of financial strength.

Overall spending on successful races for the House are similarly on the rise, and the gap between successful and unsuccessful candidacies continues to grow—surely not an encouraging trend for potential challengers (see Figure 9¹³).

A closely related trend is the increase in spending by incumbents (see Figures 10 and 11¹⁴). Since incumbent campaigns are generally successful, it is difficult to determine whether it is the general incumbency advantage or the monetary advantages that accompany incumbency which are responsible. Regardless, it is clear that these two factors are crucial in state legislative campaigns. In 2004 96.9% of winning state house candidates either outspent their opponents, were incumbents, or held both advantages. In the state senate, every winning candidate had one or both advantage. While money spent and incumbency are both highly valuable in nearly all electoral contests, they are somewhat more important in Massachusetts than nationally. Nationwide

Figure 9: Spending on State House Races, by Success

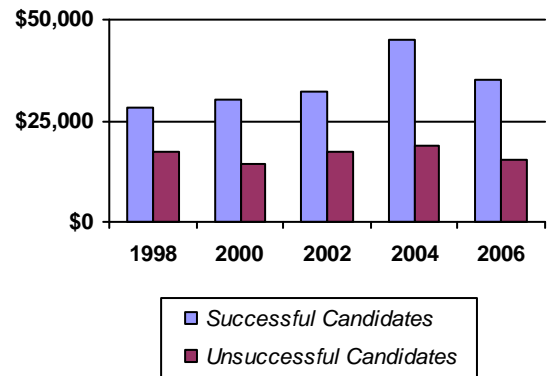


Figure 10: Spending in House Races by Incumbency

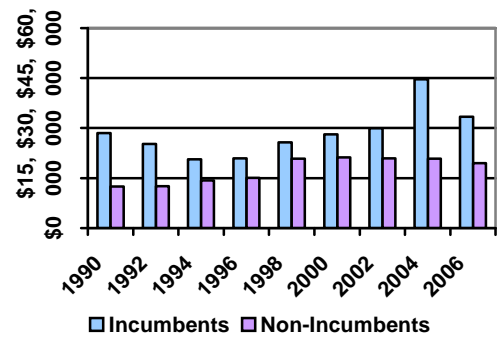
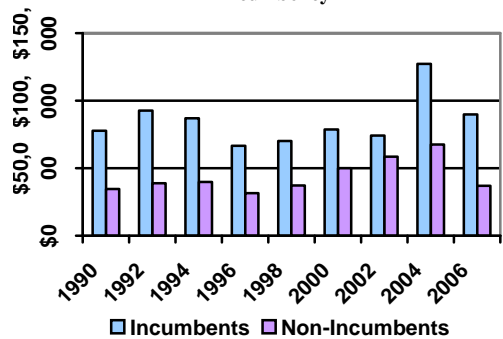


Figure 11: Spending in Senate Races by Incumbency



only 94% of winning state house candidates and 94.6% of winning state senate candidates had one or both advantage.

Citizen and Voter Participation

As many studies have reported, citizen involvement is on the decline. Americans are less interested in politics and less connected to the political system than ever before.¹⁵ With lower levels of participation in the population generally, one could expect lower rates of candidacy for public office to follow. Of course, the reverse is also true and the dearth of competition turns the citizenry from politics through the lack of a real role to play in many elections along with the attendant reduction in publicity, debate, and discussion of the issues voters care about.

Social Capital.

Measuring citizen involvement across states is difficult to do for lack of a comprehensive measure. Professor Robert Putnam attempted to do just that by exploring the state of civic life in the United States across several indexes. His account quantified measures of community participation, resulting in the “Comprehensive Social Capital Index” measuring community involvement, participation, and cohesion. Massachusetts ranked 18th in the country with a Social Capital Index of 0.22 compared to a national average of 0.02.¹⁶ In individual measures, Massachusetts ranked at or slightly above the

Massachusetts places 18th in the country in an overall “social capital” ranking.

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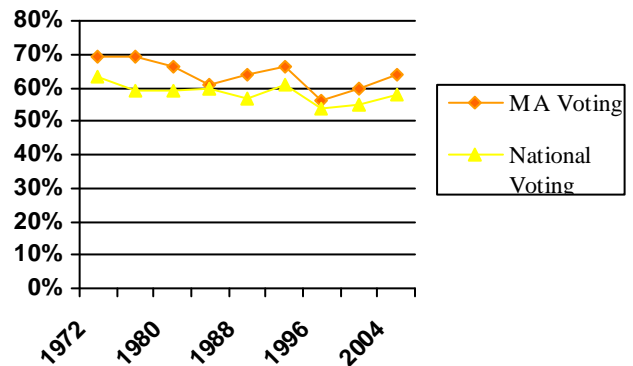
national averages in attendance at club meetings, attendance at meetings on local affairs, and a general measure of trust in fellow citizens.¹⁷ And according to a 2002 poll by Bridgewater State College, citizen participation in Massachusetts follows national trends.¹⁸

Blank Votes. Blank ballots in Massachusetts legislative elections can reach very high levels. Whether caused by lack of awareness, distaste for the candidates, or indifference, this measure could indicate dissatisfaction among voters. Though it is impossible to be sure what voters mean to indicate by failing to vote in certain elections, it probably generally suggests either that the voter does not believe that her or his vote will matter to the outcome (a reasonable belief in uncontested elections) or that the voter believes that no candidate on the ballot will adequately represent them.

Voter Turnout.

It is difficult to isolate turnout for legislative elections since they are held concurrently with both statewide and national elections. But Massachusetts turnout numbers can be compared to national levels for a picture of how the state measures up and where it's headed. Over the last four decades, turnout in Presidential election years has declined both in the Commonwealth and at the national level. The state has seen slightly less decline than the national average, however, decreasing

Figure 12: Turnout in Presidential Election
Years



from 69% of the voting age population in the 1971 election to 65% in 2004. Nationally, turnout fell from 63% in 1968 to 58% most recently in 2004 (see Figure 12).¹⁹

Turnout in non-Presidential election years is consistently lower than corresponding Presidential election years, yet in Massachusetts it remains higher than in the rest of the country. In 2002, voter turnout was 48% in Massachusetts, and only 42% nationally (see Figure 13). Voter registration in the state has also historically been higher than that of the entire country. Though Massachusetts voter registration dipped in the 1990's, it has since increased, and remains somewhat higher than United States average (see Figure 14).

Voter registration laws can impact turnout, evidenced by the higher turnout in states that allow for registration at the polls on election day or do not require voter registration at all.²⁰ In Massachusetts, voters are required to register at least 20 days before an election—on par with many other states with similar requirements. On average, states require voters to register about 28 days before a general election to be eligible to vote.²¹ Easing registration laws is a very effective way to increase voter participation, with turnout in Election Day Registration (EDR) states consistently more than ten percent higher than the national average. In the 2004 presidential race, EDR states had an average turnout 12% higher than that of non-EDR states.²²

Figure 13: Turnout in Non-Presidential Election Years

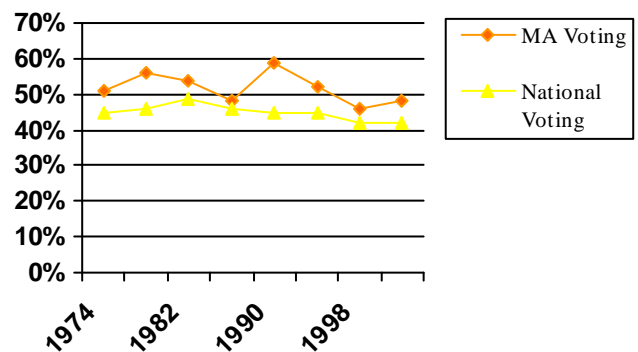
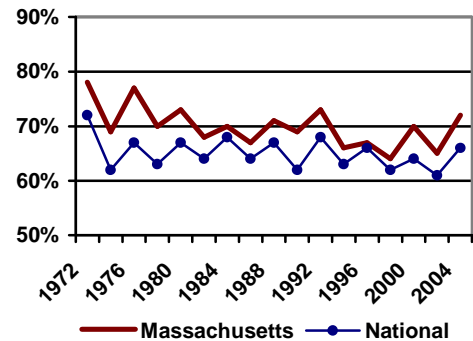


Figure 14: Voter Registration as % of Voting-Age Population



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One-Party Dominance

Of the two hundred seats in the Massachusetts legislature, 174 of them are held by Democrats. This leaves the state's Democrats with 87% control of the legislative branch, effectively making Massachusetts a one-party state. No state legislature is currently more heavily dominated by one party than is Massachusetts'.²³ Typically, the number of Democrats and Republicans is not even in the states—on average, state legislatures are weighted in favor of one of the two major parties by 24% (see Figure 15). However, only 10 states have one party holding seventy percent or more of the legislative seats, while in 26 states the majority party held under sixty percent of all seats.

In the rest of the country, the relationship between competitive elections and dominance of one party is unclear. The two do appear to share a connection, as states with very high levels of one-party dominance also tend to show high levels of non-competitive elections (see Figure 16).²⁴ Massachusetts, Arkansas, Idaho, and Rhode Island, for example, show higher rates on both variables. But other states show the opposite trends, such as North Dakota where virtually all elections are competitive despite 69% one-party dominance, or Texas where non-competition reaches 70% despite an even Democrat/Republican split.²⁵ So the Democrats' dominance in Massachusetts cannot fully explain the problem.

And while this may help to partially explain the lack of Republican candidates in general

Figure 15: Dominance of Controlling Party in State Legislatures, 2002

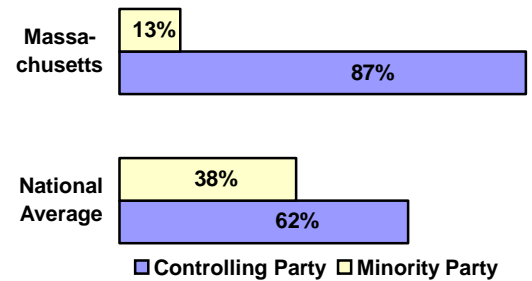
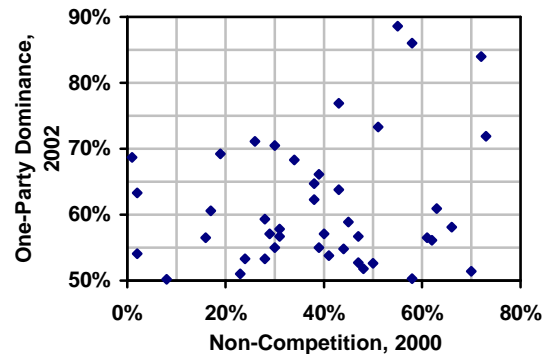


Figure 16: Election Competition and One-Party Dominance Across States



elections, it does not account for the low competition in Democratic primaries. For Republicans, however, the extremely low numbers of legislative seats mean less influence on state policy, decreased ability to hold committee chairmanships, and overall a much lower probability of winning. All these factors could discourage candidates from making a bid for office, resulting in less competitive elections.

Compensation

Incentives for politicians may impact their inclination to run for office, and could even be seen as a symbol of the public’s esteem for their officials. Legislators in the Commonwealth are paid a base salary of \$58,237 per year. This is higher than most states which pay per year, where the average salary is approximately \$31,727. But in states where the legislature meets full time, the average salary rises to \$64,805 and Massachusetts is below the median (see Figure 17).²⁶

Legislative leaders in the state, however, are paid disproportionately more in Massachusetts than their counterparts in other states. The Senate President and Speaker of the House, for example, are paid 63% more than legislatures without leadership positions, for a salary of \$93,237. This is the highest pay differential of any state where the legislature meets full time—the average differential for presiding officers is 40% (see Figure 25). Other leadership positions in the

Figure 17: Base Pay in State Legislatures, 2007

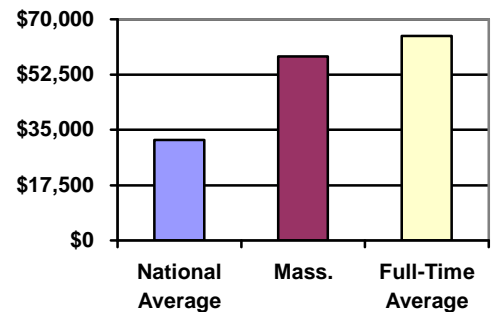
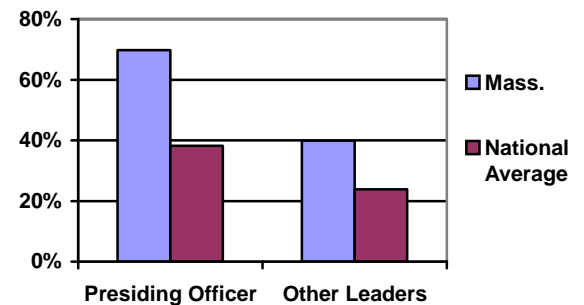


Figure 18: Leadership Pay Differential Above Base Salary, 2001



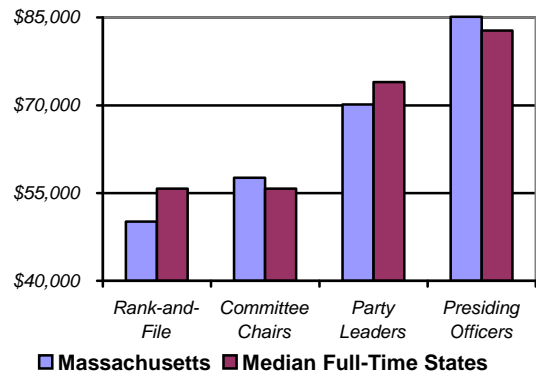
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Commonwealth are also paid proportionally higher salaries than most. Only Pennsylvania pays leaders, including Majority and Minority Leader, Assistants, etc., a higher proportion of the base wage. In Massachusetts, those officers are paid 40% more than their colleagues are, while the average for all full time legislatures is just 24% more.²⁷

Compared with other states with full-time legislators, Massachusetts pays its legislative leaders more than most. While rank-and-file members are paid less than the full-time median, many leaders receive a big enough pay differential to bring their salaries above their colleagues in other states. Committee chairs, for example, earn \$58,000 compared to \$56,000 in other states with full-time legislatures. Presiding officers in Massachusetts also earn slightly more than their colleagues in other states, taking in \$85,000 as opposed to a median of \$83,000 (see Figure 26). This is more significant when compared with the lower base salaries in the Commonwealth.

In addition to leadership positions, several other legislative posts come with higher salaries and other perks. In 2002, of 196 members of the Senate and House of Representatives, 103 of those were paid the base salary. Fifty seven committee chairs earned an extra \$7,500; twenty eight assistant leaders earned \$15,000 more; four party leaders earned \$22,500 above the base rate; two chairs of the House and Senate Ways and Means committees earned \$25,000 more; and the two presiding officers made an extra \$35,000.²⁸ (Most states give no extra

Figure 19: Legislative Pay by Position, 2001



compensation for committee chairs and assistant leader positions.²⁹⁾ But legislative salaries do not account for the many other various pay perks that come with the post. Many states pay per diem expense reimbursements or housing costs for their legislators, and many of those do not require documented expense receipts. In Alabama, for example, salaries are just \$10 per day, but legislators also receive \$2,280 per month plus \$150 per week when they are in session. In six states legislators are given no per diem expense reimbursements at all.³⁰ Massachusetts falls in the middle of the range, paying legislators \$10 to \$100 per day depending on the legislator’s distance from the state house, and expenses must be documented for reimbursement.

In many states, legislators are reimbursed for office expenses up to a maximum rate. Sixteen states do not disburse these benefits, but lawmakers in Massachusetts are paid \$7,200 per year for office expenses.³¹ In addition, they are provided with full time, year-round office staff at the State House. About half of state legislatures do not have office staff year-round, which leaves Massachusetts lawmakers freer than many of their colleagues to do the work they find most important.³² Because of the wild variation in systems of legislative pay in the states, it is very difficult to aggregate these numbers into a composite figure to compare states. But overall, Massachusetts legislators receive a significant perks compared with other states.

Massachusetts is one of half of all states with year-round legislative staff.



Leadership and Favoritism

The Speaker of the House and the Senate President wield a great deal of power in the State House and State Senate. While the two presiding officers are democratically elected at the start of every session, once they rise to the post they are often able to use rewards and punishments to ensure compliance with their political preferences.³³

The degree to which favoritism in the Massachusetts legislature affects a candidate's political future may prevent would-be reformers from seeking public office. Faced with the prospect of retribution and stripped influence, many lawmakers may be unwilling to oppose the leadership or even to vote for measures the leadership opposes. The culture of the state house, many believe, "has reduced representative government to the tripartite rule of House Speaker, Senate President, and Governor."³⁴ The Speaker and the Senate President also choose which bills are brought up for debate—dissuading legislators from opposing them for fear that they will have trouble getting bills important their constituents on the agenda.³⁵ This has resulted in a remarkable unwillingness—perhaps practical inability—to oppose legislative leaders. For example, in the legislative session that began in January of 2007, Democrats in the House of Representatives cast a combined total of only 567 total votes against DiMasi by April of 2008, which works out to approximately one dissent per member on every 40 roll-call votes.³⁶

Citizens who see this process in the State Legislature may very well be discouraged by the lack of autonomy and individual power held by rank and file legislators. This may add to the relative lack of competition in Massachusetts state legislative elections.

Access to the Ballot

Candidates for public office must first access the ballot, and laws can be structured to limit that access and thus limit the number of candidates who can overcome the hurdle. After examining some evidence, however, the state's laws do not appear to greatly impact the level of competitive elections and are probably not a factor that contributes to the Massachusetts problem.

Candidates for state House of Representatives in Massachusetts, for example, are required to submit 150 signatures of party members or independent voters to get on the primary ballot. This translates into 0.88% of eligible signers, which is a higher burden than many states require. Thirty one states do not require a candidate to submit any signatures, and fourteen have lower signature requirements as a percentage of eligible signers.³⁷ But many of these states impose other requirements that can be more onerous, such as Florida where candidates must pay six percent of the annual salary as a filing fee.

Moreover, in states where the signature requirement is higher than in Massachusetts, noncompetitive elections are much more rare. Vermont requires signatures from 1.86% of

Access laws to the primary ballot in Massachusetts do not differ markedly from those in other states.



those eligible to sign (50 total), making it the most demanding of all states with signature requirements. But only 28% of their elections are noncompetitive, suggesting that the connection is weak at best. In fact, states where more signatures are required than in Massachusetts had a 2000 average of just 34% noncompetitive elections, compared to a national average of 41% and the Massachusetts level of 72%. Even Florida with its hefty fees has a low level of 43% noncompetitive elections.³⁸

Public Scrutiny and Ethics Restrictions

A race for public office in Massachusetts requires a candidate to open herself to public scrutiny that some may find too great an infringement on their privacy. With public opinion of state legislative functions low, and media criticism of the legislature's initiatives (and lack of initiatives) high, a seat in the state legislature may bring more spotlight than limelight.

All candidates, for example, must file Statements of Financial Interests with the State Ethics Commission, detailing their income, business associations and equity, investments, debts and creditors, gifts, expense reimbursements, real estate, and more.³⁹ Once earnings rise above \$100,000 they are no longer categorized, which has sparked criticism from those who believe the disclosure rules should be more stringent.

The state's Ethics Commission oversees conflicts of interest, improper use of office and abuse of power, nepotism, acceptance of honorarium and gifts, and post-term employment restrictions. A study by the Center for Public Integrity ranked Massachusetts 18th in the nation "for making basic information on state legislators' private income, assets, and conflicts of interest available to the public."⁴⁰ It is also one of just three states that pick ethics commission members without input from the legislature.⁴¹ Candidates must file disclosures annually and before each election with detailed information about their contributors, contribution amounts, and expenditures.⁴²

Massachusetts is ranked 18th in the nation for public availability of legislators' ethical information.

Although Massachusetts' ethics laws are no more restrictive than the laws in many other states, the extent of public scrutiny that comes with the job may prevent potential candidates from seeking office. At the same time, these public disclosure and ethics laws serve a vital function for democracy in the state and this should not be seen as an endorsement for weakening them.

Legislative Effectiveness

One reason more people do not run for public office may be a lack of interest in actually holding public office. Reports of the ineffectiveness of the legislature abound in the media and public opinion, and the data available appears to substantiate this impression. With the House and Senate leadership maintaining tight control of their

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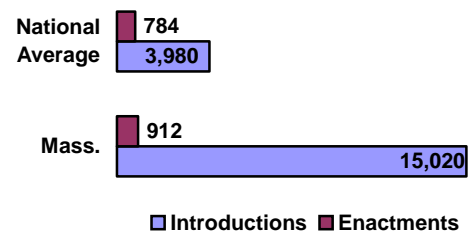
chambers' proceedings, substantive laws must gain their approval before they can be ushered out of committee and taken to the floor for any action.

Procedure. Bills can languish in committee indefinitely, until the leadership schedules them for the floor. One senator has complained, "The process can be exceedingly frustrating for members and their staffs as good proposals wither on the vine, and incessant critics complain about the lack of significant legislation being enacted to solve pressing public problems."⁴³ This senator estimated that there were, at the time of his interview, 900 bills currently sitting in the Ways and Means committees.

Determining how many of the bills filed in the Massachusetts legislature make it to a final vote is extremely difficult, as the clerks keep neither these records nor numbers of voice votes. However, there is data on the number of bills enacted, which at 912, of the 15,000 bills introduced in the 1998-1999 session, was slightly higher than the national average of 784 (see Figure 27).⁴⁴ The percentage of bills enacted relative to those introduced in the state, however, was lower than every state in the country other than New York in 1998-1999. Only six percent of all introduced bills were enacted, compared with an average of 29% across states.

This measure admittedly says nothing about the content or quality of the bills introduced and passed, and it is surely true that many of the 15,000 introduced bills should not have been enacted as a matter of good public

Figure 20: Bill Enactments and Introductions, 1998-1999



policy. But Massachusetts leads the nation in the number of bill introductions,⁴⁵ and the extremely high number coupled with the low rate of enactments in the state suggests a level of waste and inefficiency within the system. And this is not due to the state’s provision for citizen bill introductions, which generated only 232 bills in the 2001-2002 session.⁴⁶

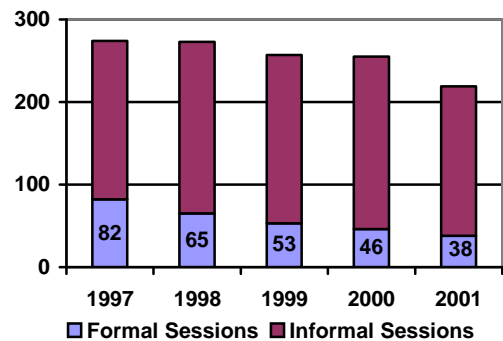
Legislative sessions in the state have been on the decline as well, with formal sessions in 2001 lagging well below their 1997 levels. In 1997, for example, the legislature held 82 formal sessions. Five years later there were fewer than half that number, with just 38 formal sessions (see Figure 28).⁴⁷ The number of hours spent in formal session has been decreasing steadily, from 497 hours in 1989 to a 3-year average of just 202 hours from 1996 to 1998.⁴⁸ And the number of roll call votes, which are crucial for legislative accountability, has been “sharply diminishing” according to a *Boston Globe* Spotlight investigation.⁴⁹

Influence of Outside Interests.

As the legislative process declines, lobbyist spending and influence both appear to be prevalent in Massachusetts. The state is ranked fifth in the country for state-level lobby spending, at \$78,960,743 in 2006, with a national average of \$29,978,806.⁵⁰ A *Boston Globe* investigation found special interest contributions to legislators increased 40% over ten years, from \$706,000 in 1990 to \$986,000 in 1999. The number of registered

Citizen introductions of bills accounted for just 232 of the total for the 2001-02 legislative session.

Figure 21: Legislative Sessions in the Senate and House



At nearly \$79 million in 2006, Massachusetts was 5th in the nation for lobbyist spending on the state level.



lobbyists, at 102 in 1990, jumped to 680 just ten years later. At the same time, the compensation of lobbyists grew from \$15.4 million to \$43 million.⁵¹

This may turn potential new legislators away from the legislature, for both ideological and practical reasons. Some candidates might be reluctant to take a position in an organization that is so heavily infiltrated by lobbyists with their own agendas. And new legislators receive a disproportionately low amount of their donations, making it more difficult to challenge incumbents entrenched in the current system. The *Globe* report found that as contributions to the Speaker and the Senate President went up, even committee chairs were receiving less of the contributions.⁵²

A 2002 investigation by the Center for Public Integrity found that 7% of the state's legislators sat on committees that regulated their professional or business interests, 4% had financial ties to organizations that lobby state government, and a full 35% received income from a government agency other than the state legislature. Nationwide, those numbers averaged 25%, 18%, and 23% respectively for all state legislators.⁵³

35% of Massachusetts legislators received income from another government agency.

Lobbyists and their employers thus seem to have increasing control over the legislative process. In a political climate where insiders are rewarded and the status quo is maintained, new candidates may well be discouraged from pursuing the path to public office.

Responsiveness to Constituents.

With power concentrated in the hands of the leadership, rank and file legislators have fewer opportunities to pursue their own agendas. The Speaker and Senate President have been assessed as “virtual one-man rulers of their respective chambers.”⁵⁴ And constituent responsiveness may suffer from the increased power of lobbyists outlined above.

On the other hand, Massachusetts legislators, represent districts that are not much larger than their colleagues’ districts in other states. Senators in the state represent districts with an average size of 158,727, where the national average is 139,901.⁵⁵ House districts are smaller than the national average for state legislatures, with 39,682 constituents in Massachusetts compared to 53,986 nationally. Massachusetts legislators, then, are similarly situated to their counterparts around the country in constituent size, and thus presumably in constituent work.

Legislative districts in Massachusetts are similar in size to those in other states.

The combination of decreased legislative effectiveness, procedural inefficiencies, and increased control of lobbyists over the process probably impacts both public opinion of the legislature and the decisions of candidates to seek office. The situation as a whole in the state may seem unappealing to those who would like to make changes in policy and could discourage campaigns.

Solutions to Consider



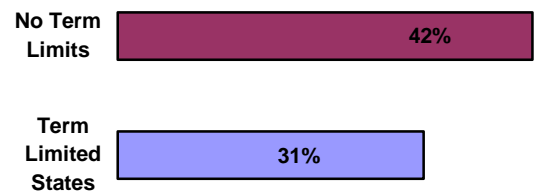
Term Limits

By creating more open seats, term limits are an easy way to increase competition. In 1994, term limits of eight years were enacted by denying compensation to legislators who sought and won a fifth term. Before the law could have any effect, however, the Supreme Judicial Court of Massachusetts. In *League of Women Voters v. Secretary of the Commonwealth*,⁵⁶ ruled that the limits infringed unconstitutionally on ballot access, so the law was struck down. Term limits could be established by constitutional amendment with the support of 25% of the legislature in two consecutive sessions and majority support at the ballot. But the attempt to do just that in 1991 met with insurmountable opposition from the legislature.⁵⁷

Even if term limits could be established in the Commonwealth, it is not necessarily clear that it would be wise to do so.⁵⁸ Fifteen states have term limits in their state legislatures of some kind, typically after eight or twelve years of service.⁵⁹ In the 2000 elections, states with term limit laws in effect had uncontested races in 31% of their elections, while states without term limits averaged 42% (see Figure 29).⁶⁰ But while it would likely increase legislative competition, it would help to solve the problem in an artificial way—without addressing the underlying reasons for why so few men and women run for political office. Term limits would probably not increase challenges to incumbent legislators. They could also cause unwanted side effects, such as increased prevalence and power of

An attempt to impose term limits on Massachusetts legislators was unsuccessful in 1994.

Figure 22: Uncontested Races in 2000



lobbyists and less experienced lawmakers.⁶¹ As one term-limited legislator in Maine put it, “if term limits get rid of the dead wood, they get rid of the live wood too.”⁶²

Campaign Funding

The Current System. When responding to questions about their trust in Massachusetts government in 2002, more residents cited the importance and prevalence of “big interests” as problematic than either government waste or the corruption of public officials.⁶³ This shows that voters in the state are concerned with the amount their legislators are beholden to special interests—a problem that can be remedied with an overhaul of the campaign funding system.

Refurbishing the state’s campaign finance restrictions could also make it easier for non-incumbent candidates, who are less able to attract big contributors, to compete.

Massachusetts campaign fundraising laws place many restrictions on the amount and sources of money for political candidates, but is less restrictive than about a dozen states by some measures. Massachusetts is one of twenty-two states to prohibit contributions from a corporation directly to a candidate—six states place no restrictions on corporate contributions whatsoever.⁶⁴ Contributions from individuals in Massachusetts are limited to \$500 per candidate per year; eleven states have similar or lower contribution limits (see Figures 23 and 24).⁶⁵

Figure 23: States with Individual Contribution Limits Lower than Massachusetts, per cycle

<i>Montana</i> ¹	\$260
<i>Maine</i> ¹	\$500
<i>Arizona</i> ²	\$390
<i>Delaware</i> ²	\$600
<i>Colorado</i> ¹	\$400
<i>Minnesota</i> ³	\$800(S); \$600(H)
<i>Connecticut</i> ¹	\$2,000(S); \$500(H)
<i>Michigan</i> ²	\$1,000(S); \$500(H)
<i>South Dakota</i> ⁴	\$1,000(S); \$500(H)
<i>Wisconsin</i> ²	\$1,000(S); \$500(H)
<i>Massachusetts</i> ⁴	\$1,000
<i>Florida</i> ¹	\$1,000

¹ Limits are listed per election; amounts here are doubled to account for primary and general elections.

² Limits are listed per election cycle.

³ Minnesota limits contributions to \$500 in election years and \$100 in non-election years.

⁴ Limits are listed per year; amounts here are multiplied by term length to equal election cycle limits.

Figure 24: Individual Aggregate Contribution Limits, per election cycle

<i>Arizona</i> ¹	\$5,610
<i>Maryland</i> ²	\$10,000
<i>Rhode Island</i> ³	\$20,000
<i>Massachusetts</i> ³	\$25,000
<i>Wisconsin</i> ³	\$40,000(S); \$20,000(H)
<i>Connecticut</i> ¹	\$30,000
<i>Maine</i> ³	\$50,000
<i>Wyoming</i> ³	\$50,000(S); \$25,000(H)
<i>New York</i> ³	\$300,000

¹ Limits are per election; amounts here are doubled to account for primary and general elections.

² Limits are per election cycle.

³ Limits are per year; amounts are multiplied by term length for election cycle totals.

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Massachusetts is one of eleven states to limit the aggregate amount of contributions that a candidate can collect from a Political Action Committee (see Figures 25 and 26).⁶⁶ Those limits are \$150,000 per year for a gubernatorial candidate, \$18,750 for a state senate candidate, and \$7,500 for a house candidate. Fourteen states place no limits on PAC giving to candidates, while the remaining 25 states limit donations *from* individual PACs rather than total amounts a candidate can accept. Massachusetts’ aggregate limits are in the middle of the range (with regard to legislative candidates) of those states that limit totals rather than individual contributions. Limits on the aggregate collections from PACs may be more effective, since PACs are relatively easy to create and could be used as a way to circumvent contribution limits by simply donating smaller amounts to several PACs.

Eight states have lower contribution limits from state parties to legislative candidates than Massachusetts.⁶⁷ In Massachusetts those transfers are limited to \$3,000 per candidate per year. Of the remaining states, 20 place no restrictions on party-to-candidate contributions. Massachusetts falls around the middle in total contributions raised by state parties—at \$6,074,004 in the 2006 election cycle, it was lower than 18 states.⁶⁸ Massachusetts has eliminated the soft money loophole by regulating contributions both to and from state political parties.⁶⁹

Similarly, Massachusetts has effectively eliminated transfers from national political parties and caucuses to the state parties.⁷⁰ All

Figure 25: States with PAC Contribution Limits Lower than Massachusetts

Montana ¹	\$260
Colorado ^{1, 2}	\$400
Maine ¹	\$500
Arizona ^{3, 4}	\$600
Delaware ³	\$600
Minnesota ⁵	\$600
Michigan ³	\$1,000(S); \$500(H)
Wisconsin ³	\$1,000(S); \$500(H)
Massachusetts ⁶	\$1,000
Florida ¹	\$1,000

- ¹ Limits are listed per election; amounts here are doubled to account for primary and general elections.
- ² Has a higher limit for “small donor” PACs.
- ³ Limits are listed per election cycle.
- ⁴ Arizona also has a separate category of “Super PACs” which receive donations of at least \$10 from at least than 500 individuals: these PACs have a higher contribution limit of \$1,600 per election cycle.
- ⁵ Minnesota limits contributions to \$500 in election years and \$100 in non-election years.
- ⁶ Limits are per year; amounts here are doubled to compare to election cycles.

Figure 26: Aggregate PAC Acceptance Limits, per election cycle

Arizona ¹	\$12,920
Minnesota ²	\$4,800 (Senate); \$2,400 (House)
Massachusetts ²	\$37,500(Senate); \$15,000(House)
Wisconsin ¹	\$15,525 (Senate); \$7,763 (House)
Louisiana ¹	\$60,000
Nebraska ²	\$89,000 total from all PACs, corps, unions, & parties
Tennessee ³	\$150,000
Washington ⁴	\$5,000
Kentucky ¹	Greater of 50% of total acceptances or \$10,000

Total Contribution Limits for PACs

Rhode Island ²	\$50,000
Maine ²	\$25,000
Connecticut ³	\$200,000 if established by a business entity \$500,000 if established by an organization

- ¹ Limits are per election cycle.
- ² Limits are per year; amounts are doubled for election cycle totals.
- ³ Limits are per election; amounts are doubled for election cycle totals.
- ⁴ Washington aggregate limits are within 21 days of a general election only.

contributions are tracked by the Office of Campaign and Political Finance just as in-state donations are. In most other states these transfers are unlimited, making soft money readily available to state political parties.

Fundraising laws in Massachusetts are thus better than average, but there is significant room for improvement. Under the current system, incumbent legislators are far more able to amass and spend large sums on their campaigns, giving them a distinct advantage at the polls.

Publicly Financed Elections.

Publicly financed legislative elections would likely do a great deal to solve the competition problem in the state. By providing a competitive amount of money for candidates who earn a broad base of voter support, public financing is intended to ensure that any qualified citizen can run for office. It also may increase the appeal of running a campaign since it greatly reduces the need for candidates to spend time fundraising and frees them up for more substantive discussion and debate.

Both Maine and Arizona have public financing laws, and both have seen increases in competition since their laws have been in effect. The number of candidates running for office increased by 12% in Arizona and 5% in Maine.⁷¹ And the number of contested primaries in both states also increased, by 40% and 33% in Maine's House and Senate,

In states with publicly financed elections, competition increased by an average of about 28%.



respectively, and falling 2% and rising 40% in Arizona.⁷²

A challenger who ran against the departing Speaker in Arizona and won assessed Clean Elections this way: “(c)lean Elections helped get me on the playing field. It didn’t necessarily give me the win, but it put me on the playing field so at least I could participate against the Arizona Speaker of the House.” One observer in Maine noted, “(c)lean Elections moved running against an incumbent from being nearly impossible to damn hard. It is a step in the right direction.”⁷³

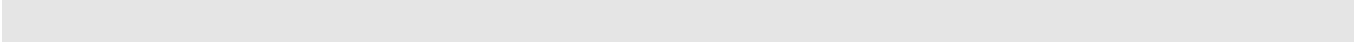
Free Air Time. One potentially less controversial alternative to public funding of elections is the granting of free air time for candidates. This system decreases the cost of elections—either to the state budget or to the candidates themselves—by requiring broadcasters to provide air time to candidates free of charge.

The airwaves are publicly owned, and licenses are granted to broadcasters free of charge. Since broadcasters receive a free benefit from the public, it should be politically viable to require the companies to give back to the public by providing at least some form of political information and education.

Change the Legislative Rules

One way to bring more qualified candidates to the campaign trail could be to reform the legislature from the inside. This may help attract otherwise disinterested people by allowing more avenues for innovations to public policy, which presumably is one reason candidates run for office.

The Coalition for Legislative Reform, composed of several Massachusetts organizations committed to greater “transparency, accountability, and credibility” in state government, proposed several changes to the system in 2000. The coalition suggested, for example, that bills sent to committees should be automatically placed on the calendar to increase the number of bills that are ever brought to the floor for debate. It has also advocated for restrictions on outside sections to the budget and upholding the constitutional prohibition on including laws not germane to the budget. Similarly, the work done in informal sessions should be restricted so important or controversial legislation can be included on the agenda and recorded in a roll call vote.⁷⁴



The absence of competition in legislative races in Massachusetts should be cause for great concern within the state. It is a sign of some much larger problems, stemming from the lack of participation in all types of civic life and signifying the gradual turn away from politics. But it also contributes to an increasingly alarming state of affairs in state government. As fewer candidates run for office, fewer incumbent legislators will have challengers to hold them accountable to their constituents. Even the most well-intentioned legislators will have trouble in a system where new sources of energy and ideas lie dormant behind a stagnant status quo.

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- ¹ Gerard O’Neill, et al, “Lobbyists’ Power Grows in Tightly Controlled Legislature,” *The Boston Globe*, p. A1 July 16, 2000.
- ² Bridgewater State College poll, 2002, “Citizen Participation and Trust in Massachusetts 2002,” in *Memos the Governor*, Project of the American Society for Public Administration (ASPA)—Massachusetts Chapter, p. 9, 2002.
- ³ Office of Campaign Finance *Campaign Finance Activity Summary*, 2006.
- ⁴ OCPF *Campaign Finance Activity Summary*, 2006; AP Article
- ⁵ OCPF *Campaign Finance Activity Summary*, 2006.
- ⁶ Massachusetts Secretary of the Commonwealth, “2006 Return of Votes,” available at <http://www.sec.state.ma.us/ele/elepdf/rov06.pdf>.
- ⁷ Robert Hedlund defeated Brian McDonald by just 408 votes out of a total 69,793 cast.
- ⁸ State Elections Overview 2006, National Institute on Money in State Politics, March 2008, available at http://www.followthemoney.org/press/Reports/State_Overview_2006.pdf. Louisiana and Mississippi did not hold state legislative elections during this cycle.
- ⁹ *Id.*
- ¹⁰ *Id.*
- ¹¹ Massachusetts Office of Campaign and Political Finance, “Campaign Finance Activity by Candidates for the Massachusetts General Court, 2006,” available at <http://www.mass.gov/ocpf/legpr06.pdf>.
- ¹² Spending data from Massachusetts Office of Campaign and Political Finance, 1998 through 2006 Campaign Finance Activities Reports, available at http://www.mass.gov/ocpf/homepage_studies.htm.
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ For an exhaustive account, see Robert Putnam, *Bowling Alone*, 2000.
- ¹⁶ North Dakota ranked first with a CSCI of 1.71; Nevada was last with –1.43. See Robert Putnam, *Bowling Alone*.
- ¹⁷ Commonwealth Magazine, MassINC, see http://www.massinc.org/handler.cfm?type=1&target=2000-3/states_s00.html. Club meetings attended last year: 7.4 in Mass; 7.5 48-state average. (DDB Needham Lifestyle archive, 1975-1998.) Attended meeting on local affairs in the last year: 24% in Mass; 19.1% 48-state average (Roper Social and Economic Trends archive, 1974-2000). Most people can be trusted: 46% in Mass; 44% 48-state average. (General Social Survey, 1974-1996.)
- ¹⁸ “Citizen Participation and Trust in Massachusetts 2002,” *Memos to the Governor*, 2002, Executive Summary.
- ¹⁹ All voter turnout and registration data from the U.S. Census Bureau, Voting and Registration Data, available at <http://www.census.gov/population/www/socdemo/voting.html>.
- ²⁰ Six states allow for Election Day registration (EDR): Maine, Minnesota, Wisconsin, Idaho, New Hampshire, and Wyoming. North Dakota does not require voter registration at all. See: Demos: A Network for Ideas and Action, *Expanding the Vote: The Practice and Promise of Election Day Registration*, January 2002.
- ²¹ National Conference of State Legislatures (NCSL), “Voter Registration Deadlines,” available at <http://www.ncsl.org/programs/legman/elect/taskfc/deadlines.htm>.
- ²² Demos, “About Election Day Registration,” available at <http://www.demos.org/page52.cfm>.
- ²³ All State Legislature party control information from the National Conference of State Legislatures, “2006 Post-Election/2007 Pre-Election Partisan Composition of State Legislatures,” available at <http://www.ncsl.org/statevote/partycomptable2007.htm>. Nebraska is no included, because the Nebraska State Legislature is officially nonpartisan.
- ²⁴ Data on competitiveness of state legislative elections is available only for 2000, while partisan composition is from 2002. See *Id.*; also Winger, Ballot Access News, December 5, 2000.
- ²⁵ The correlation between the two is a low 0.20. *Id.*
- ²⁶ National Conference of State Legislatures (NCSL), “Legislator Compensation,” March 2007, available at http://www.ncsl.org/programs/legismgt/about/07_legislatorcomp.htm.
- ²⁷ Other leadership positions include Majority Leader and Minority Leader, Assistant Majority Leader and Assistant Minority Leader, Majority and Minority Whip, etc. Positions vary by state. *Id.*
- ²⁸ Information comes from Bob Joyce, Massachusetts State Treasurers Office, July 30, 2002. Four legislative seats are open at time of writing.
- ²⁹ Andrew Geiger, “Additional Compensation for Committee Chairs,” NCSL, 2002. See <http://www.ncsl.org/programs/legman/01table1.htm>.
- ³⁰ Connecticut, Delaware, New Hampshire, New Jersey, Ohio, and Rhode Island, and the District of Columbia do not reimburse for per diem expenses. Source: NCSL “2002 State Legislator Compensation and Living Expense Allowances During Session;” see *Id.*
- ³¹ *Id.*
- ³² Alan Rosenthal, et al, *The Case for Representative Democracy*, National Conference of State Legislatures, 2002, p. 16.
- ³³ David S. Bernstein, *DiMasi’s Sheep: How Stepford politics rule Beacon Hill*, Boston Phoenix, April 9, 2008.

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- ³⁴ John McDonough, *The Speaker Who Believed in Democracy*, Commonwealth Magazine, Winter 2002 Volume 7, Number 1, p. 48.
- ³⁵ See “Politics Issue: House Speakership,” 02133.org, 2002 at <http://www.02133.org/issue.cfm?ID=56&CategoryID=12>.
- ³⁶ David S. Bernstein, *DiMasi’s Sheep: How Stepford politics rule Beacon Hill*, Boston Phoenix, April 9, 2008.
- ³⁷ Winger, “2000 Primary Ballot Access for State House Candidates,” *Ballot Access News*, 2000. See <http://www.ballot-access.org>.
- ³⁸ *Id.*
- ³⁹ Massachusetts General Laws Chapter 268B Section 5. See <http://www.state.ma.us/ethics/web268b.htm>.
- ⁴⁰ Center for Public Integrity, *Hidden Agendas: How Legislators Keep Conflicts of Interest Under Wraps*, at <http://www.50statesonline.org/dtaweb/spsearch.asp?L1=20&L2=10&L3=55&L4=40&L5=0&State=&Display=HARState>.
- ⁴¹ California and Hawaii are the other two.
- ⁴² For details on each state, see http://www.ncsl.org/programs/press/2000/Campaign_Finance_Reports.htm.
- ⁴³ Senator Richard T. Moore, “Can we ever trust the Legislature?,” 2002.
- ⁴⁴ Rosenthal, *The Case for Representative Democracy*, NCSL. Source: The Book of the States, 2000-01.
- ⁴⁵ Only New York, with 32,000, had more bill introductions in the two years.
- ⁴⁶ Unfortunately, these statistics were not available to compare across years. Massachusetts General Court, House Clerk’s office, August 7, 2002. See also: <http://www.state.ma.us/legis/> under “Bill Histories.”
- ⁴⁷ Coalition for Legislative Reform press release, Boston, MA, November 2000.
- ⁴⁸ O’Neill, “Spotlight,” *The Boston Globe*, p. A1, July 16, 2000.
- ⁴⁹ *Id.*
- ⁵⁰ Only 43 states were included in the study due to lax reporting requirements in many states. The Center for Public Integrity, “Hired Guns,” State Lobby Totals, 2004-2006,” December 21, 2007. Available at <http://www.publicintegrity.org/hiredguns/chart.aspx?act=lobbyspending>.
- ⁵¹ O’Neill, “Spotlight,” *The Boston Globe*, p. A1, July 16, 2000.
- ⁵² *Id.*
- ⁵³ The Center for Public Integrity, “Private Legislatures, State Numbers,” May 1, 2002.
- ⁵⁴ O’Neill, “Spotlight,” *The Boston Globe*, p. A1, July 16, 2000.
- ⁵⁵ All State legislative district size information from the National Conference of State Legislatures, “Constituents per State Legislative District,” available at <http://www.ncsl.org/programs/legismgt/elect/cnstprst.htm>.
- ⁵⁶ 425 Mass. 424 (1997).
- ⁵⁷ The Senate President refused to bring the issue to the floor for a vote, effectively killing the measure. In *LIMITS v. President of the Senate*, 414 Mass. 31 (1992), the Supreme Judicial Court said they could not force the legislature to take a vote on the matter.
- ⁵⁸ The National Conference of State Legislatures has commissioned a study to analyze the effects of term limits in various states. The “Joint Project on Term Limits” is estimated to be completed in December 2004. See the Executive Summary, <http://www.ncsl.org/programs/legman/about/execsum.htm>.
- ⁵⁹ Those states are Arkansas, Arizona, California, Colorado, Florida, Louisiana, Maine, Michigan, Montana, Missouri, Nebraska, Nevada, Ohio, Oklahoma, and South Dakota. See: National Conference of State Legislatures, “Legislative Term Limits: An Overview,” available at <http://www.ncsl.org/programs/legismgt/ABOUT/termlimit.htm>.
- ⁶⁰ OK, UT, WY, LA, NV, and NE have term limit laws which would not impact legislators in the 2000 elections—they will become effective in 2002 up to 2008. Source: NCLS, “Term Limited States by Year Enacted and Year of Impact,” <http://www.ncsl.org/programs/legman/about/states.htm>. Competition data from Winger, *Ballot Access News*, Dec. 5, 2000. See <http://www.ballot-access.org/2000/1205.html>.
- ⁶¹ Mark Hass, a state representative from Oregon, where legislators are term limited, stated “I think regular people would be alarmed if they really knew how much influence lobbyists now have over this system.” Sam Howe Verhovek, “In State Legislatures, 2nd Thoughts on Term Limits,” *The New York Times*, May 21, 2001.
- ⁶² Statement of State Senator Beverly Daggett of Augusta, reported by Sam Howe Verhovek, “In State Legislatures, 2nd Thoughts on Term Limits,” *The New York Times*, May 21, 2001.
- ⁶³ ASPA, “Citizen Participation and Trust in Massachusetts, 2002,” *Memos to the Governor*, 2002, p. 12.
- ⁶⁴ National Conference of State Legislatures, “State Limits on Contributions to Candidates,” April 25, 2007, available at http://www.ncsl.org/print/legismgt/limits_candidates.pdf.
- ⁶⁵ *Id.*
- ⁶⁶ *Id.*
- ⁶⁷ *Id.*
- ⁶⁸ State Elections Overview 2006, National Institute on Money in State Politics, March 2008. Available at http://www.followthemoney.org/press/Reports/State_Overview_2006.pdf.
- ⁶⁹ Limits on contributions to political parties in Massachusetts are similar to limits on contributions to candidates. *Id.*

⁷⁰ As outlined by the Office of Campaign and Political Finance (OCPF), “a political committee must be organized under and in compliance with the provisions of M.G.L. c. 55 in order for it to contribute to Massachusetts candidates.” Interpretive Bulletin #82-01; Issued July 1982, Revised May 21, 1997.

⁷¹ Marc Breslow, et al, *Revitalizing Democracy: Clean Elections Reform Shows the Way Forward*, Money and Politics Implementation Project, January 2002, p.8.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *An Agenda for Legislative Reform*, Coalition for Legislative Reform Press Release, “Transparency, Accountability, Credibility,” Nov 2000.