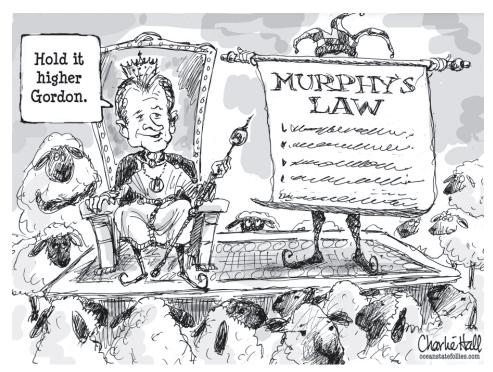
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March/April 2005 Volume 13, Number 1

"Murphy's Law" rules House!



Murphy's Law: "Anything that can possibly go wrong, will go wrong."

Rhode Island is ripe for Voter Initiative

BY BEVERLY CLAY

Voters approved an "advisory" ballot question in 1996 for Initiative and Referendum – also called "Voter Initiative." To transform such an advisory question into law, the General Assembly must pass a bill that puts the issue back on the ballot. However, such bills have not been allowed to reach the House or Senate floor for a vote. So, for the eleventh year, Senator Marc Cote has introduced voter initiative bills 05-S-124 and 05-S-125. Representative Roger Picard has offered similar bills, 05-H-5243 and 05-H-5245.

Voter Initiative is a process through which citizens can place new ideas for laws or constitutional amendments on the ballot for a vote. New York Governor George Pataki said it best: "The guiding principle behind initiative and referendum is simple: when a Legislature fails to act on issues important to the citizenry, the people have the ability and the means to act on those issues."

The California Commission of Campaign Financing says Senator Cote's bills are model legislation because they address problems found in other states. They are worded to protect civil rights and liberties and they offer fiscal restrictions. They have high voter signature requirements based on a percentage of the votes cast in the last gubernatorial election (5 percent or approximately

20,000 votes for a statutory initiative and 10 percent or approximately 40,000 for a constitutional initiative.) These percentages must be met in at least twenty of Rhode Island's thirty-nine cities and towns.

Each initiative would require a fiscal impact statement prepared by the secretary of state, the treasurer, and the director of administration in consultation with the senate and house fiscal advisors. Only the most responsible ideas could survive such stern tests

Senator Cote's bills include provisions for legislative review through public hearings. If voted and passed by the General Assembly and signed by the governor, the initiative would become law without requiring a ballot vote. If not passed by the General Assembly, each legislator's vote would be listed in the Voter Information Handbook and the question would be placed on the ballot.

Twenty-four states and hundreds of cities and counties, including Washington DC, New York City and Los Angeles — along with 19 Rhode Island municipal governments — already have voter initiative. An analysis by the New York Public Interest Research Group found that states with voter initiative have considerably higher voter turnout.

Those who criticize voter initiative, claim it would destroy representative see **Voter Initiative**, page 3

Why would anyone vote for these (new) rules?

BY ROD DRIVER
State Representative 1987-1994

February 17 was a dark day for Rhode Island as 40 members of the House handed the Speaker virtually every bit of power that he might have previously lacked.

Traditionally the Speaker has great power. But after the present Speaker was re-elected by "only" 45-30, the majority rewrote the rules to shut out the minority entirely.

A little history

In the 1980s special pension bills were slipped through the General Assembly unseen. Credit-union regulatory bills were quietly killed without even a committee vote. A bill to eliminate credit-union liquidity reserves passed under false representations. These and other outrages cost Rhode Islanders hundreds of millions of dollars.

As a result, in the early 1990s, the House adopted some new rules. Committee chairs were required to honor a sponsor's request for consideration of his or her bills. The public was to be notified of hearings on bills. Members were to be allowed to see bills before voting on them and the House would pass no more than 40 bills in one day.

But now the House has turned back the clock with new rules as bad as the rules

of the 1980s — in some respects worse. The majority rejected 20 attempts by Representatives Savage, Watson, Gorham, Long, Amaral, Voccola, Menard, Caprio, Smith, Ehrhardt and others to preserve some of the safeguards.

The rules used to say that if a committee chair fails to consider a bill at the sponsor's request, the Speaker "shall" send the bill directly to the House for consideration. The new rules say that the Speaker "may" do so (at his discretion).

A petition to discharge a bill from committee will now require 38 signatures instead of 30 (the number of votes against the re-election of Speaker Murphy.)

The Speaker, Majority Leader and Minority Leader may now drop in on any committee to vote on any bill.

Committees can consider any bill without public notice and without even distributing copies. It requires only a simple majority of the committee members who happen to be in the room.

Representatives may now have little opportunity to see bills before voting on them. Bills can be distributed as late as half a day before the House votes — sometimes

see Murphy's Law, page 2

The bills are in – they need your voices!

The powerful and connected few call the shots in Rhode Island. We the people are being left out and it costs us big time in ever-increasing taxes and poor job opportunities. Operation Clean Government (OCG) is committed to changing the way government operates. OCG has submitted legislation this session that will give citizens a bigger say in their government; that will shine the light on government wrongdoing and that will reform the ethics commission. These bills are::

- Voter Initiative (S-124, S-125, H-5243, H-5245)
- The office of Inspector General (S-513, H-5596)
- A stronger Ethics Commission (S-46, H-5626)

These bills will give the citizens the tools necessary to hold their government accountable and give the people a stronger voice in their government. It will require a vocal citizenry for these bills to receive a public hearing and a committee vote.

Therefore, OCG is asking Rhode Island citizens to support these bills by speaking out as they did for Separation of Powers. Legislators listen when contacted by many of their constitutents. Now is the time to create a loud chorus of voices on these issues!

Can OCG count on your active support? Contact your representatives by telephone, letter or emails and ask for their support of these bills.

For telephone numbers, addresses and emails of your Representative and Senator, visit the OCG website at www.ocgri.org.

To find out who your representatives are: call your local board of canvassers or the Secretary of State at 222-2357

Murphy's Law, from page 1

not at all

A bill can bypass the committee process entirely and be passed immediately on the floor unread unless one-third of the members object. Even in the 1980s any one member could insist that a bill go first to a committee.

And if any power for the Speaker and Majority Leader has somehow been overlooked, the new rules can now be suspended without the consent of the Minority Leader.

Even in the 1980s and 90s, rules that got in the way could be suspended. On June 6, 1991, I tried to enforce a rule limiting the House to 40 bills per day and requiring advance distribution of bills. The leaders simply called for suspension of the rules. They got 85% of the votes.

Thereafter hundreds of unread bills were passed faster than you could turn the

pages. Several of these bills did just the opposite of what they were alleged to do.

Why would any representative vote for these new rules? For that matter, why does the majority routinely do whatever the Speaker wants?

The answer lies in a simple, unwritten, self-fulfilling rule: To get one's bills passed, a representative needs the blessing of the Speaker. And to earn this blessing, the representative should do whatever the Speaker wants.

This irresponsible process will not change until legislators add more calcium to their backbones — or Rhode Island voters and media pundits start paying attention. We Rhode Islanders criticize the General Assembly, but we traditionally re-elect our representatives and senators, or promote them to higher office, oblivious of their records.

The Roll Call on Final Approval of the House Rules for 2005

Yes (40)

Ajello, D- Providence Almeida, D-Providence Carter, D- N. Kingstown Church, D-N. Smithfield Coderre, D-Pawtucket Corvese, D-N. Prov. Costantino, D-Providence Crowley, D-Newport Dennigan, D-E. Prov. Diaz, D-Providence Faria, D-Central Falls Flaherty, D-Warwick Fox, D-Providence Gallison, D-Bristol Gemma, D-Warwick Ginaitt, D-Warwick Jackson, D-Middletown Jacquard, D-Cranston Kennedy, D-Hopkinton Kilmartin, D-Pawtucket Lally, D-Narragansett Landroche, D-W. Warwick Lima, D-Cranston Malik, D-Warren McNamara, D-Warwick Melo, D-E. Prov.

Moura, D-Providence
Murphy, D-W. Warwick
Naughton, D-Warwick
O'Neill, D-Pawtucket
Pacheco, D-Burrillville
Picard, D-Wooonsocket
Rose, D-E. Prov.
San Bento, D-Pawtucket
Schadone, D-N. Prov.
Shanley, D-S. Kingstown
Slater, D-Providence
Sullivan, D-Coventry
Williams, D-Providence

Williamson, D-W. Warwick

No (28)

Amaral, R-Tiverton Brien, D-Woonsocket Caprio, D-Narragansett Davey, R-Cranston DeSimone, D-Providence Ehrhardt, R-N. Kingstown Giannini, D-Providence Gorham, R-Coventry Laroche, D-Woonsocket Long, R-Middletown Loughlin, R-Tiverton

McCauley, D-Providence McManus, R-Lincoln Menard, D-Lincoln Moffitt, R-Coventry Moran, D-Central Falls Mumford, R-Scituate Palumbo, D-Cranston Savage, R-E. Prov. Scott, R-Exeter Singleton, R-Cumberland Smith, D-Providence Story, R-Barrington Ucci, D-Johnston Voccola, D-Johnston Wasylyk, D-Providence Watson, R-E. Greenwich Winfield, D-Smithfield

Not Voting (7)

Anguilla, D-Bristol Handy, D-Cranston Lewiss, D-Westerly McHugh, D-S. Kingstown Petrarca, D-Lincoln Rice, D-Portsmouth Trillo, R-Warwick

Arruda speaks to RISC



OCG Chairman Robert Arruda, speaks on achieving ethical and responsible government at a Rhode Island Shoreline Coalition meeting. Groups can request a speaker for their functions and meetings by calling Will Barbeau at 245-8375.

Inspectors General save big bucks

BY BEVERLY CLAY

It is an accepted fact that fraud, waste and mismanagement exist in state government. Establishing an independent office for a state Inspector General (IG) would go a long way towards alleviating these problems. In addition, the savings generated by an IG would more than pay for running the office.

Operation Clean Government created and promoted IG legislation introduced in each of the past four years. The bill was prepared with the help of John Gudavich, a Retired Associate Inspector General for Investigations, Office of Inspector General, in Washington, D.C. and modeled after the general laws of Massachusetts, the first state to establish an IG Office in 1981. Since that time, eighteen other states and the District of Columbia and many counties and cities have established IG Offices.

This legislation has been introduced by Senator Lou Raptakis (05-S-513) and Representative Victor Moffitt (05-H-5596).

The proposed IG would be charged with detecting and preventing fraud, waste, and mismanagement in the expenditure of public funds, focusing on the procurement of materials and services, particularly for major construction projects. He/she would also be proactive in reviewing statutes and regulations relating to programs and operations, making recommendations concerning their effect.

Examples of the savings that have occurred in other states as a result of an IG are:

Massachusetts — "With an operating budget of less than \$2 million, the inspector general's office more than pays its keep...[Inspector General Gregory] Sullivan estimates that his office has generated

roughly \$1 billion in cost recoveries and savings in its 23-year history." *Boston Globe editorial "An enforcer of Honesty", March 12, 2003*

Pennsylvania — Investigations led to collections and savings of over \$158 million during Fiscal Year 2001-2002 in welfare fraud, *Office of Inspector General Annual Report (July, 2001 – July, 2002)*

Oklahoma — "Their work resulted in \$7.4 million in restitution or recoupment of fraudulent payments with an additional \$5.1 million in projected savings to DHS programs." www.okdbs.org/oig

Washington DC — "In total, the OIG achieved monetary benefits/recoveries of approximately \$178.4 million over the FY 2000-2003 period. When compared to the \$40 million cost of operating the OIG over the same 4-year period, the benefit to the District is easily seen in the more than 4 to 1 return on investment for every OIG dollar expended." Report on the Activities of the Office of the Inspector General, Fiscal Year 2003.

Miami-Dade County, Florida—Florida does not have a state Inspector General, but Miami-Dade County created an IG position 1997. This office serves a county with a population more than twice that of Rhode Island. "Thus far, in fiscal year 2003-2004, the Office has identified over \$19 million in savings and questionable costs." Office of the Inspector General, 2003 Annual report.

Budgets vary from \$370,000 to \$10 million, including Maryland that allows a budget equal to of the amount saved.

Clearly, Rhode Island would benefit from having an Inspector General to provide oversight of government operations.

Gift Regs Revisited

Presently, elected and appointed officials can receive a gift or other thing of value up to \$150 from an interested party and up to \$450 during the year from one individual. This went into effect in 2000 when the Rhode Island Ethics Commission (RIEC) reversed the "no gift" rule.

RIEC has proposed the following two options for strengthening the gift regulations.

Option #1 - a return to the "gift ban" policy, with a definition of "insignificant value," if their actual cost or fair market

value, whichever is greater, is twenty (\$20) dollars or less.

Option #2 — Reduce the present individual gift allowed from \$150 to \$25 from an interested party and the aggregate during a year from \$450 to \$75 from that party.

The public hearing is scheduled for Mar 22 at 9 AM at 40 Fountain St., Providence. Operation Clean Government will be there as well as many other groups and citizens who have long been concerned about the current rules for gifts.

Website Gets Facelift

OCG is a pleased to announce that a new website is underway. In addition to a new look that incorporates OCG's new logo, the website will offer new user interactivity such as a searchable archive of opinion pieces and press releases, links to current news stories and a discussion board where users can opine about local politics.

Board member David Clarke is heading the project. The new website is expected to debut in mid-March.

Visit www.ocgri.org

Reps stiff voters on SOP

Over two thirds of Rhode Islanders voted for Separation of Powers (SOP) in the last election — after ten years of relentless effort on the part of many reform groups, informed citizens and honest, responsible politicians. Operation Clean Government played a major role in that effort. But obviously it was too soon to celebrate. Four months later, the people are still waiting for SOP to go into effect, and that is because our state representatives in the House are ignoring the will of the people.

These same representatives supported SOP when they ran for office, but now that they are once again safely ensconced back on Smith Hill, they are hesitating to make the necessary changes to implement balanced government.

You might call it obstruction. First, House Speaker William J. Murphy planned to seek a Supreme Court advisory opinion on the Constitutional questions involving the Lottery Commission, the Coastal Resources Management Council and other significant boards. Murphy eventually backed down to "expedite the implementation of Separation of Powers and to honor the will of the people" neither of which have yet been accomplished.

Next Representative Paul Crowley proposed abolishing the Lottery Commission and transferring most day-to-day functions to the Department of Administration, but retaining *some* revenue-related powers for the General Assembly. OCG publicly blasted that idea from serious consideration.

Nothing more was heard until the

middle of February when the SOP Committee Chairwoman Elaine Coderre unveiled legislation affecting only 29 boards and commissions out of 73 deemed active by the House. And 12 of those 29 are recommended for abolishment as they are virtually inactive.

The Senate has acted far more responsibly by passing legislation in last year's session which went on to die in the House. That same legislation has been reintroduced in the Senatethis year. Senators have removed themselves from all boards and commissions, but representatives have not.

Senator J. Michael Lenihan, Chairman of the Senate Oversight Committee and strong proponent for SOP, expressed to OCG the Senate's frustration over the delay in implementation and the lack of *serious* communication between the two legislative bodies.

Many of these boards and commissions that meet on a monthly basis are attempting to carry on but are hindered by the confusion resulting from the lack of SOP implementation. According to Lenihan, "We are not at the point of chaos right now, but the longer it takes, we could reach that point."

The loud and clear voices of the people made SOP happen. It's time to raise those loud and clear voices again to put SOP into action.

Call your Representative today and ask him/her to implement the Separation of Powers amendment NOW. *And call:*

> Speaker Murphy (821-2413) Rep. Gordon Fox (272-0113) Rep. Elaine Coderre (726-1190)

Voter Initiative, from page 1

government. Woodrow Wilson addressed that fear many years ago: "The threat, if not the reality, of initiative and referendum helps to encourage a more responsible, civic-minded breed of citizen and state legislator...These measures are not intended to subvert or alter the basic character of American government. Their intention was to restore, not to destroy, representative government." Teddy Roosevelt stated, "I believe that Initiative and Referendum should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative."

History shows that people are often

ahead of politicians in lawmaking. Often, people, by initiative, passed measures that eventually became standard law across the country. For example: California abolished poll taxes; Oregon created the primary election system; Massachusetts passed campaign finance reform and Colorado limited workdays to eight hours for women and underground mine workers.

It's time to give Rhode Island voters the power of initiative. The citizens are capable of responsibly engaging in the rigorous process to get an initiative placed on the ballot and to participate in the ensuing debate on the issue.



"Voter Initiative for Rhode Island" was the discussion recently at Operation Clean Government's taping of their cable TV program "State of the State." left to right: Joseph S. Larisa, Esq. (Executive Counsel and Chief of Staff to former Governor Lincoln Almond); Robert G. Flanders, Jr., (Former RI Supreme Court Justice); Senator Marc A. Cote, (representing North Smithfield and Woonsocket and sponsor of Voter Initiative legislation); and OCG Board Member Andy Galli as Host.

Ethics panel screening

Operation Clean Government prepared legislation to strengthen the appointment process of Commissioners to the Rhode Island Ethics Commission (RIEC) because of the many problems and controversies surrounding the functioning of the ethics commission and the long delays in making appointments to this commission.

Senate Majority Leader Teresa Paiva-Weed has introduced this legislation 05-S-46 for the second year. The companion bill in the House, 05-H-5626, has been introduced by Representative Victor Moffitt.

There are currently nine appointments to the RIEC, five by legislative leaders who submit a list of nominees to the governor (staggered over 5 years) and four by the governor (one each year). This does not change in the current legislation.

Features of this legislation

- 1. Senate advice and consent for appointments to the RIEC. Much of the language came from the current statute for advice and consent for judges. OCG feels that this rigorous screening is necessary because of the extraordinary powers granted to the RIEC by the RI Constitution.
- 2. A change of the expiration date of each commissioner's term to March 1 to coincide with the legislative session, so that:
- a. By January 15, the same nominating authorities as currently exist shall submit their lists of five names to the governor.

- b. By February 1, the governor shall submit to the senate a name chosen from the list from an appointing authority or his own appointment. (The governor has four appointments.)
- 3. OCG has added language to motivate nominating authorities to work within set time limits. If the legislative nominating authority fails to act within the times prescribed, then he/she forfeits that privilege and it passes on to the governor. If the governor fails to act within the times prescribed, then the Lieutenant governor will make the nomination."
 - Note: Even though the current statutory requirement is that vacancies be filled within 30 days, there are now two expired terms that have not been filled (one from Sept. 2003 and the other from Sept. 2002. One recent appointment to the commission was for a term that expired four years earlier.)
- 4. The senate shall hold public hearings and vote on the question of approving the nominees within 30 days of receipt of the name(s). If they fail to approve the nominee within 30 days, then the governor or lieutenant governor shall nominate some other person in accordance with this chapter.

OCG strongly promotes these changes to toughen the present method of appointments, which has clearly failed to keep the RIEC appointment process up to date.

Strange bedfellows beat OCG on #2

BY SANDRATHOMPSON

I am really confused by what happened in the last election. Voters overwhelmingly approved the Separation of Powers Amendment, but narrowly defeated the calling of a Constitutional Convention.

Defeat of Question #2 for a Constitutional Convention was a real blow. OCG put a great deal of effort in support of that question. A poll conducted by Rhode Island College in mid-October showed the call for a Constitutional Convention winning by a 2 to 1 margin. At about the same time, a group calling themselves 'Citizens for Representative Government' organized an advertising campaign to defeat Question #2.

Many of us who are involved in government reform were taken by surprise when Phil West of Common Cause was the spokesman for this coalition to defeat a constitutional convention. He lent his voice in recorded phone messages, on TV programs and in an opinion piece for *The Providence Journal*.

However, the money for this campaign did not come from Common Cause, but rather from union coffers. West, when asked, admitted that if the unions were out in front in this campaign it would very likely not be successful. I think he was right, since many folks I spoke with had no idea of union involvement when they voted

to reject a constitutional convention.

West's opinion was that changes to the constitution are better dealt with through the legislative process than through an open convention of the citizens. West and his union supporters worried about "the mischief" that would take place in a people's convention.

But, what exactly takes place in our General Assembly? Note: the casino legislation that passed in the last session was found to be unconstitutional by the Supreme Court of Rhode Island; the judiciary budget was taken out of the governor's budget process; and the budgetary discretion of the Board of Higher Education was usurped. These were done in the waning days of the 2004 legislative session without hearings and input by the public. Now, that truly smacks of mischief.

Confusing or not, the fact is the election is over and the people lost the chance to hold a convention. So what can we do now to change our government to better serve the people of this state? History shows that when a large number of people express their opinions to legislators, they will listen.

Elected officials need your vote to stay in power. Call, write or email your legislators and let them know you are watching them. See shaded box on page one for contact information.

OCG Complains: Voters were cheated

BYWILL BARBEAU

Rhode Island voters have just been given the cheating of a lifetime. Thanks to lax enforcement by the Board of Elections under Roger Begin, the 2004 elections were run like a Super Bowl football game without

Operation Clean Government filed two complaints with the Board of Elections on January 5 to expose the situation, documenting twenty-one alleged election law vio-

In an accompanying news release, OCG asked the Governor to replace Chairman Roger Begin as soon as possible. Begin stated in 1996 that he would have legislation introduced in 1997 to clarify the election laws on advocating for or against ballot questions and to date has not done it.

These complaints resume an eightyear-long effort by OCG to clarify the election laws, forcing the issue by documenting alleged violations to financial reporting laws. OCG documented many examples of a cavalier attitude toward the Board's enforcement powers by groups such as the 'RIghtNow! Coalition' and 'Citizens for Representative Government.'

OCG sought change in 1996

The basic problem goes back to 1996 when the Board of Elections issued a highly conflicted Advisory Opinion 96-01 on financial reporting requirements. It carved out exceptions to the law by allowing the Providence Chamber of Commerce to call itself an 'individual' to avoid forming a PAC. The classification of the Chamber was based on its status as a large nonprofit corporation that had long existed for reasons other than advocating for or against a ballot question.

To make matters worse, the Board issued an even more conflicted interim policy in the fall of 1996 to allow newly formed groups to claim similar status as 'individuals,' thus avoiding the restrictions on PAC membership, such as no corporate donations and a \$1,000 limit on individual donations.

The Board claimed that it would seek clarification from the General Assembly in the 1997 session. OCG testified against this interim policy in 1996 and again sought clarification in 2000. The Board has done nothing in eight years to resolve the conflict, resulting in financial reporting regulations being flouted and a flawed election process.

The complaints

The first OCG complaint focuses on the 'RIghtNOW! Coalition' led by Sheldon Whitehouse, Alan Hassenfeld, H. Philip West, Jr. and Larry Fitzmorris advocating for Separation of powers, Referendum Question 1.

The second complaint is against 'Citizens for Representative Government,' chaired by Edward O'Brien, with election reports filled out by Guy Dufault, advocating against a Constitutional Convention, Referendum Question 2.

In several instances, coalition organizers and leaders went so far as to sign forms claiming that they were 'individuals' acting on their own behalf. Both filings can be viewed in detail on Operation Clean Government's web site: www.ocgri.org

To date, there is no notice from the Board on the status of these complaints. A letter to OCG from the board's attorney, Raymond A. Marcaccio, tells of the recent filing of a lawsuit against the Board by the ACLU charging that the reporting requirements violated the First Amendment rights of certain entities. Marcaccio also tells of the long awaited legislation he is drafting to address some of the important issues raised in OCG's complaints. He states that OCG will receive notice of a public hearing on these two issues.

Confusion in the Board's financial reporting requirements since 1996 along with their seemingly uncaring attitude is causing election laws to fail in their purpose of providing voters with a clean view of who is spending how much to influence their votes.



An open meeting of the Board of Elections, January 25: left to right, back row: John A. Daluz, Raymond Xavier, Chairman Roger N. Begin, Vice Chairman Thomas V. lannitti, Frank A. Rego. Absent are Judith H. Bailey and Florence G. Johnson.



Sidewalk outside of Election Board headquarters on Branch Ave in Providence remains uncleared days after big January blizzard. Yet, agency owns a now-famous snow blower. Uncleared sidewalks and unenforced election laws seem typical of agency leadership. **PHOTOS BY WILL BARBEAU**

Join the OCG Team

For as little as \$1 a month, you can help fight corruption and unethical behavior in RI state government.

OCG's goal is to promote Honest, Responsible and Responsive state government. OCG has no political affiliation. We have no paid staff. WE ARE ALL VOLUNTEERS. Funds raised are used to file court suits and ethics complaints and to print and distribute newsletters. Other expenses include mailings, office supplies and public forums. Take pride in your state by being a member of this great team. JOIN NOW!

OCG MEMBERSHIP FORM

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□ New member □ Renewal

YES,

City/Town

My membership contribution to OPERATION CLEAN GOVERNMENT is enclosed:

□\$25 □ \$100 □ \$____ Other Individual Family (list all names to be included) Home Phone **Business Phone** Email Address Street

State OCG is a non-profit organization, however contributions are not tax deductible because our activities include lobbying. ☐ Yes, I would like to volunteer some time or participate on one or more of the OCG committees. Please call me.

OPERATION CLEAN GOVERNMENT ● POBOX 8683 ● WARWICK, RI 02888

I heard about OCG from

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