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O'Rourke gets OK to collect pension while serving as judge

By Kyle Hughes
Albany Bureau

ALBANY — Court administrators said yesterday that they had approved former Westchester County Executive Andrew O'Rourke's request to collect a state pension while serving as a judge.

The decision means O'Rourke, who was the 1986 Republican candidate for governor, can collect an estimated \$80,000 annual state pension on top of a \$113,000 judicial salary. The pension is based on

O'Rourke's three decades on the public payroll, including his tenure as county executive.

"This is Governor George Pataki using taxpayer money to reward his friends," fumed state Sen. Richard Dollinger, D-Brighton, who released a letter yesterday questioning the arrangement. "Judge O'Rourke should not allow this to happen. He's a man of higher quality than that."

Michael Colodner, Office of Court Administration chief counsel, said

Chief Administrative Judge Jonathan Littman could not overrule Pataki's appointment of O'Rourke to the Court of Claims. The court hears lawsuits against the state.

Under the law, O'Rourke has the right to collect a pension at the same time he's getting a judge's paycheck. Once O'Rourke filed a request for a waiver to get the pension, the courts could not say no, Colodner said.

The waiver was required because state law generally prohibits

public employees from collecting pension benefits at the same time they are on a public payroll. But the law makes exceptions for newly hired retirees if they are needed in government service, can carry out the job, or there are no other qualified people readily available to do the job.

Colodner called Littman's review of O'Rourke's waiver request "pro forma." O'Rourke was unavailable for comment yesterday.

Dollinger and Sen. Franz Leicht-

er, D-Manhattan, questioned the arrangement.

They asked the Office of Court Administration to turn over O'Rourke's waiver application along with the names of any other judges who have qualified for the waiver in the past five years.

Dollinger called the pension approval "outrageous" and questioned the Office of Court Administration's interpretation of the law. "This is a sweetheart deal for a friend of George Pataki," Dollinger said.

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Metro News Briefs

NEW YORK

Ex-County Chief's Deal On Pension Is Questioned

ALBANY — A longtime Republican officeholder should not be allowed to receive a pension while serving as a State Court of Claims judge, two Democratic state senators said yesterday.

Andrew P. O'Rourke, a former Westchester County executive and the Republican Party's 1986 candidate for governor against Mario M. Cuomo, will collect a pension of about \$80,000 a year on top of the \$113,000 he is making in the Court of Claims.

Gov. George E. Pataki, also a Republican, nominated Mr. O'Rourke to the judgeship and he was confirmed earlier this month by the State Senate. Mr. O'Rourke retired at the end of December after 15 years as Westchester County Executive.

State Senators Richard A. Dolinger and Franz S. Leichter wrote to the chief administrative judge of the court system, Jonathan Lippman, asking for more information about the O'Rourke payment plan and whether any other state judges were getting their pensions while serving on the bench.

"I think this is clearly an F.O.G. — 'Friend of George' — deal," Mr. Dolinger, of Rochester, said. "What is disappointing about this for me is that Andrew O'Rourke, at least by reputation, was a fiscal conservative who believed that people shouldn't be taking advantage of government."

(AP)

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Ex "E-2"

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Wednesday, January 14, 1998

O'Rourke confirmed as judge

By Kyle Hughes
and David McKay Wilson
Staff Writers

ALBANY — State legislators confirmed Westchester County Executive Andrew P. O'Rourke as a state Court of Claims judge yesterday after he answered questions about his purchase of office furniture with campaign funds.

Before the Senate vote, he joked with lawmakers about using \$4,700 in leftover campaign donations to help cover the

\$5,075 purchase of county-owned furniture valued by an appraiser at more than \$9,000.



Andrew O'Rourke

"It did teach me one ... lesson. I will pass that along to anyone who is interested," he said. "Don't

go into the used-furniture business."

Then he told members of the state Senate Judiciary Committee that his intent was to "purchase through the campaign committee this furniture and use it in my judge's chambers, thereby keeping it in public service and also saving the state of New York the necessity of having to furnish an office."

"That was my purpose," O'Rourke said. "I believe it is within the meaning and intent of

Please see O'ROURKE, 2A

Ex 'E-3'

O'Rourke: Gets OK as judge

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he Election Law, and that's what I did."

However, O'Rourke's campaign committee paid for the furniture on Nov. 20, which was more than three weeks before he was interviewed and then nominated for the post.

The purchase of the furniture by People for O'Rourke is expected to become the topic of an investigation by the state Board of Elections. Blair Horner, legislative director of New York Public Interest Research Group, said he intends to file a complaint with the agency.

Horner contended that O'Rourke was converting the campaign funds to his personal use.

O'Rourke is expected to visit his new chambers at 140 Grand St. in White Plains today. He will be assigned cases filed against the state of New York in Orange, Rockland and Dutchess counties. David Klingaman, clerk of the state Court of Claims, said O'Rourke would move into an already furnished office that had been used by Chief Administrative Judge Jonathan Lippman.

"Lippman's furniture will be moved to other offices when O'Rourke's furniture arrives, he said. Klingaman said O'Rourke had informed him that the county would move the furniture from an Ardsley warehouse to White Plains.

County spokesman Susan Tolchin declined to comment on whether O'Rourke would pay for the moving service. She also declined to say whether the county would allow it to be moved before O'Rourke paid an outstanding balance of \$375 on the furniture.

After he was confirmed unani-



The Associated Press

Andrew O'Rourke speaks yesterday at a meeting of the New York Senate Judiciary Committee in Albany.

mously to the \$113,000 judgeship, O'Rourke brushed aside additional questions about the furniture and decoration of his new office.

"If there is any furniture there, it will be shifted to some other state use," O'Rourke said. "I don't think there's any Pulitzer Prize with that story."

As O'Rourke sat in the Senate gallery listening, no senator spoke against his nomination.

"He is really a renaissance man in the 20th century," said Sen. John Marchi, R-Staten Island. "Erudition, jurisprudence, academic, whatever field. When he had to beat his sword into a plowshare, he did and he did it very well."

While the confirmation vote came without controversy, his appearance before the Judiciary

Committee ended chaotically, with senators and aides scurrying out of a room after an outburst by a Westchester resident who said O'Rourke was unqualified to be a judge.

When O'Rourke wrapped up an anecdote about his 1986 campaign for governor, and the committee began to vote, Elena Ruth Sassower began shouting.

"No! There is citizen opposition to this nomination," she said, leaping from her seat and moving toward startled legislators. "This nomination is not properly before the Senate, and this committee has not interviewed the citizen opposition nor received the proper evidence."

"There is no committee report on Mr. O'Rourke's qualifications," she said. "It is required as a matter of law. It must be avail-

able to the public for public inspection. This nomination is a nullity."

Sassower was allowed to continue to speak, but she was surrounded by Senate security men as the room emptied out. With a guard watching, she later passed out materials from her group, the Center for Judicial Accountability, and said O'Rourke had not been properly investigated before being nominated for a judgeship.

She cited her group's conclusion that O'Rourke was "thoroughly unfit for judicial office." The group has challenged his legal credentials and his record while a lawyer in private practice.

He has no judicial experience and has not been a lawyer in private practice since 1982.