

State court nominee's confirmation expected

The Associated Press

ALBANY — A senior state Senate Judiciary Committee member predicted Howard Levine will be a "shoo-in" for a spot on New York's top court when senators convene for a one-day special session today.

But at least one group will oppose Levine's nomination to the state Court of Appeals.

Levine, a 61-year-old justice with the Appellate Division of state Supreme Court in Albany, was chosen last month by Gov. Mario Cuomo to fill a vacancy on the Court of Appeals. The nomination is subject to confirmation by the Republican-led Senate, which will return to Albany specifically to act on the matter.

Sen. Hugh Farley, a longtime friend of Levine's and a fellow Schenectady-area Republican, said he expects the judge to win approval before the Judiciary Committee, then the full Senate.

"I think he's a shoo-in," said Farley, a senior member of the Judiciary Committee. "It's certainly long overdue and deserved."

Levine had been passed over by Cuomo for Court of Appeals' openings six times before the governor finally nominated him.

If approved, Levine would fill a vacancy created by Judith Kaye when she was elevated to chief judge this year. Kaye became chief judge after Sol Wachtler quit the post in the wake of charges that he harassed a former lover and her

daughter.

Levine has been an Appellate Division judge since 1982. He has been given the top rating, "well qualified," by the New York State Bar Association each time he has applied for the top court.

But Elena Sassower of a small Westchester-based group called the Ninth Judicial Committee says it plans to testify against Levine before the judiciary committee.

The reason is an Appellate Division decision in 1990 upholding the dismissal of a lawsuit against the practice of "cross endorsing." Under the deals, the Democrats' and the Republicans' judicial convention each endorses the other's candidates, resulting in only one name on a ballot.

Sassower said the five appeals judges, including Levine, obstructed justice with their decision, which protected judges who make deals with party bosses.

"He would be a disservice to justice," Sassower said.

While the full Senate considers Levine's nomination, legislative leaders are set to meet with Cuomo to discuss business left unfinished at the end of the regular session in July.

State leaders still hope to reach agreements to lower workers' compensation payments that employers pay and on a measure that would ensure preventive health care for children.

A special session for both the state Senate and Assembly is being considered for late this year.