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Sen. Tom O'Mara gets paid as a lawyer by communities he represents

Joseph Spector, Albany Bureau Published 7:00 a.m. ET Aug. 23, 2018



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Sen. Tom O'Mara, R-Big Flats, Chemung County, shown at a news conference in Albany on May 4, 2016 (Photo: Albany Bureau file photo)

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ALBANY, N.Y. (AP) — Sen. Tom O'Mara, R-Albany, Southern Tier, has been collecting as much as \$150,000 a year in salary from his private law firm because it has contracts with a half-dozen municipalities, including ones in his district, state records show.

See official rules for details

O'Mara said he sees no problem with the arrangement, saying it goes back years and are largely payments from his firm because it has the public entities, which he represents as a senator, as clients.

He has also brought in state grants for some of the same municipalities that his law firm, Barclay Damon, contracts with.

"I do do some legal work for some of these clients from time to time," said O'Mara, R-Big Flats, Chemung County. "But most of them are longstanding clients of the firm, since the '80s, frankly, before I was even in the law firm, and when we merged into the larger law firm, they were clients that I continue to get origination credit for for legal work that continues."

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But he admitted to filing an incorrect listing of his outside income on his financial disclosure form earlier this year, mistakingly filing the same form in 2016 and 2017.

He then said he would sent a correct one to the state and provided a copy to the USA Today Network's Albany Bureau, which discovered the mistake.

Outside income questioned

The situation comes as New York lawmakers' outside income draws increased scrutiny — as well as questions over whether they should be full-time lawmakers with limited income from the private sector.

Gov. Andrew Cuomo has railed against lawmakers' outside income, saying it often leads to trouble. Former Assembly Speaker Sheldon Silver, D-Manhattan, [was convicted in May](/story/news/politics/albany/2018/05/11/sheldon-silver-ex-assembly-speaker-found-guilty-retrial/603667002/) for being paid more than \$4 million from two law firms in exchange for using his influence to help the firms.

Lawmakers having outside income can create the potential for a conflict of interest, critics said. Technically, state legislators are considered part time and thus can have private employment.

But unlike in Congress, they are not limited to how much they can earn outside their public jobs.

"We don't believe state lawmakers should have substantial outside income because it raises questions about which master they serve," said Blair Horner, the legislative director for the New York Public Interest Research Group, a good-government group.

In this case, Horner said, O'Mara is collecting income from other public agencies, who should question why some of their taxpayer money is going to a sitting senator who admitted he does limited legal work.

"It's a question for the taxpayers: Are they paying more than they should be for the legal work offered by this firm?" Horner said.

DATABASE: State employees salaries in 2017 (<http://pressconnects.nydatabases.com/database/state-employee-salaries>)

Hiring the law firm

None of the six municipalities and agencies who contract with the law firm Barclay Damon said they have had recent dealings with O'Mara as it relates to their relationship with the law firm, which has offices across the state.

"We don't pay Tom directly," said Michael Krusen, executive director of the Chemung County Industrial Development Authority.

"We haven't had the senator directly represent us on any case since I've been around. That's about 10 years now," said Steuben County manager Jack Wheeler.

O'Mara's outside income came from the firm's clients last year, which he listed as Chemung County, the Chemung IDA, the Chemung County Capital Resources Corp., the city of Corning, Dutchess County and Steuben County.

In each case, he listed similar services provided, such as having "consulted with client or consulted with law partners/associates/members of the firm on client matters, reviewed documents and correspondence."

But he also noted separately that the pay also included "origination of clients and matters."

Dutchess County said it "does not have contracts with Thomas O'Mara."

The county said it had used Hiscock & Barclay, now Barclay Damon, for several years, including to dissolve a local authority; for county matters dealing with bankruptcy issues; and some litigation cases.

Dutchess County Executive Marc Molinaro, a former assemblyman with O'Mara, is the Republican nominee for governor this year.

Salary earned

O'Mara reported he earned a salary (<https://jcope.ny.gov/system/files/documents/2018/07/senator-omara-t2017.pdf>) of \$100,000 to \$150,000 from Barclay Damon last year. He also earned \$94,500 as a state senator for his pay and leadership post.

That, too, has drawn criticism (</story/news/local/new-york/2017/05/22/omara-got-stipends-meetings-he-skipped/102017836/>): O'Mara is one of a group of state senators who this year received stipends for committees they do not lead.

He is listed on payroll records as receiving \$12,000 as chairman of the Senate Transportation Committee, but he actually heads the Senate Environmental Conservation Committee. (<https://www.nysenate.gov/committees/environmental-conservation>)

A few years ago, O'Mara also drew scrutiny (</story/news/politics/2015/05/30/omara-law-post-draws-scrutiny/28209153/>) for serving as the head of the environmental committee while at the same time, his firm, then Hiscock & Barclay, had a lengthy client list of energy companies and real-estate developers impacted by New York environmental laws.

His firm was originally started by his father (<http://barclaydamon.com/profiles/John-F-OMara>) in the late 1970s and was called Davidson & O'Mara before the merger.

O'Mara said his dual roles are aboveboard and he stays clear of any potential conflicts.

In a statement, Barclay Damon's chief ethics officer Robert Barrer said O'Mara is a contract partner with the firm.

The work he and Barclay Damon did for the communities is "wholly unrelated to Senator O'Mara's role as a State Senator," Barrer said.

"Accordingly, there is no conflict of interest," he said. "Further, we have a robust policy that prohibits any such conflicts from arising."

That policy, Barrer said, "expressly prohibits all firm attorneys and staff from lobbying any member of the Legislature, not just Senator O'Mara."

O'Mara's comments

Since at least 2012, O'Mara, an assemblyman until 2011, has received a cut of the legal fees paid by municipalities in the Southern Tier to the law firm, which merged with Hiscock & Barclay in 2015.

"The predominance of the work we do for the municipalities within my Senate district is insurance defense work — it is defending the county or the municipality from lawsuits," O'Mara said. "None of my work has to do with the operations of the county or the municipality."

Some of the municipalities, though, have benefited from O'Mara's role as a senator because he has secured state grants for their communities.

For example, he landed two grants totaling \$950,000 in Corning for infrastructure and equipment, as well as \$230,000 for traffic improvements on Sing Sing Road in Chemung County, records show.

O'Mara and the local leaders said there is no quid pro quo.

"I do do some work," O'Mara said about his legal work, "and frankly, my compensation isn't any different for work that I do do as opposed to what I get in origination credit for."

More: [O'Mara got stipends but missed committee meetings \(/story/news/local/new-york/2017/05/22/omara-got-stipends-meetings-he-skipped/102017836/\)](http://story/news/local/new-york/2017/05/22/omara-got-stipends-meetings-he-skipped/102017836/)

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