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Comptroller says Collins violated charter in plan to lay off 15 of his employees

Poloncarz files lawsuit over staff cuts

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Erie County Comptroller Mark C. Poloncarz filed a lawsuit Friday charging that the county executive violated the county charter by placing more than a third of the comptroller's staff on the chopping block for 2011.

Poloncarz said the charter, the central rule book that voters amended after last decade's budget meltdown, gives the county's elected department heads greater authority to propose and manage their departmental budgets.

The charter also protects those elected leaders from the severe cuts that would prevent them from carrying out their mandated duties, he said.

County Executive Chris Collins, who ran a candidate against Poloncarz in 2009, wants Poloncarz's staff cut by 36 percent, far deeper than the modest changes he imposed on departments run by the elected sheriff, district attorney and county clerk.

The loss of a total of 15 employees would hit Poloncarz's auditing unit the hardest. Collins, who doesn't consider Poloncarz's audits and reviews cost-effective, cut the unit from seven auditors to two.

Poloncarz says the county charter mandates that he audit county spending, and his ability to do so will be undermined if left with just two auditors, one of whom is eligible to retire.

He believes the Legislature should be allowed to review a budget for his office that includes all 42 employees, then decide from there the number of staff that is appropriate.

Further, Poloncarz asks a judge to

allow the transfer of dozens of accountants spread throughout the government to the

comptroller's office, so County Hall can finally set up the central accounting force that voters expected when they approved the series of charter changes in 2006.

Poloncarz's arguments will be heard at 9:30 a. m. Wednesday before State Supreme Court Justice Gerald Whalen. Poloncarz said his lawyer, Jerome D. Schad, is not charging for his services, and Poloncarz will pay, out of his own pocket, any expenses that arise to ensure that no costs fall to the taxpayers.

The Collins team said the County Attorney's Office will still have to spend taxpayer dollars representing Collins.

Christopher M. Grant, Collins' chief of staff, said the lawsuit demonstrates the comptroller's "fundamental misunderstanding of the county budget process."

"The county executive, as the chief budget officer for Erie County, has one fundamental objective — to protect the interests of Erie County taxpayers each and every day," he said, stressing that the budget still allows audits to be conducted while holding the line on taxes and spending.

"The comptroller's lawsuit is not even ripe at this point because the Legislature has not determined what it is going to do with respect to the budget," Grant said. "And therefore, any judicial intervention would be improper at this point."

This is the second lawsuit filed against Collins this week by county elected officials. The first was filed Tuesday by six County Legislature Democrats who say they are trying to protect the Legislature's legal right to amend a county budget without being ignored.

The Legislature will decide in coming weeks whether to restore spending for libraries, cultural agencies and assorted county services in 2011. But Collins has shown he's willing to pass over the Legislature's budgetary adjustments based on technicalities.

"The 2011 budget is upon us," said Majority Leader Maria R. Whyte, D-Buffalo, "and we need to assert the Legislature's power to impose budget allocations."

The lawsuit filed in State Supreme Court focuses on a specific Legislature adjustment made last year, as lawmakers readied the county budget for 2010.

The Legislature appropriated an additional \$208,539 for Erie Community College. Collins could have vetoed the appropriation— subjecting his veto to an override vote. He instead withheld payment, even after ECC asked for the money before the end of its recently completed academic and budget year.

The six Legislature Democrats say the withheld \$208,539 provides a clear case of Collins usurping the authority of another branch of government, an act that flouts state law and long-standing court decisions laid down in similar cases.

"The county executive cannot unilaterally decide what he wants . . . there are other people involved in this process," said their lawyer, Charles H. Cobb. Cobb, the

husband of Majority Leader Whyte, also is not charging for his services.

The six Legislature Democrats who filed the lawsuit say that if a judge agrees with them, they can better force Collins to follow the Legislature's other budget decisions.

Comments

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