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ERIE COUNTY

Comptroller stops check to county's new attorney

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Erie County's first paycheck to its new county attorney was halted Thursday by aides to Comptroller Mark C. Poloncarz, who said the salary was never legally set at \$150,000 a year, contrary to what County Executive Chris Collins contends.

Collins maintains that he can pay Jeremy A. Colby the \$150,000-a-year salary he offered him and instructed his Personnel Department to compute his paychecks based on that figure.

Poloncarz, however, says the Legislature had cut the salary to about \$99,000, and he will only process checks based on that annual total.

While the comptroller cannot set a salary, he can stop checks or, in Colby's case, halt direct-deposit transfers. So Colby's gross of \$2,881 for his first 40 hours of work will not reach his personal account today, his first payday since the Legislature confirmed him 11 days ago. He chose not to comment on the issue Thursday.

The Comptroller's Office sent two letters this month to John W. Greenan, the Collins-appointed personnel commissioner, telling him that it intended to halt the pay if Collins paid Colby \$150,000 a year — \$25,000 more than Collins paid his first county attorney, Cheryl A. Green.

"Our office disagrees with the county executive's assertion that he can unilaterally set the attorney's rate of pay in any amount of his choosing," a Poloncarz aide said in one of the letters.

The question of the county attorney's salary and other issues from the 2011 budget-adoption process has been in court for months. A few Legislature Democrats filed a lawsuit when the county executive asserted more budget authority than the County Charter appears to give him.

The Democrats won in the first round, though State Supreme Court Justice Joseph R. Glownia has agreed to hear the Collins arguments again in coming weeks.

County executives have long operated on the County Charter's restriction that they can only veto spending that a Legislature adds to an annual budget and may not veto the Legislature's spending cuts.

Collins, however, declared the Legislature's cuts "null and void" because, to him, they appear to violate other laws, and he should not have to abide by the cuts.

When it cut the county attorney's proposed pay in the 2011 budget, the Legislature deleted the position that Collins had budgeted at \$150,000 and created a budget line for a county attorney earning about \$99,000, the starting salary under the county's pay grades.

Collins vetoed the \$99,000 salary, viewing it as additional spending, and declared the Legislature's cutting of the \$150,000 job null and void because the County Charter requires that there be a county attorney.

Even after Glownia ruled that the County Charter does not give a county executive authority to declare cuts null and void, Collins reasoned that he could still pay the \$150,000 salary, and he set aside other legislative changes to his budget as well when he computed the tax rate.

Collins spokesman Grant Loomis said the Collins team contends that the county attorney's post is not even in the 2011 budget, which is illegal since the County Charter requires one. They contend that the last legal act by the county's budget-making officials applies — Collins' establishment of the post at \$150,000.

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