

September 27, 2013 Friday

**Quinn’s pay freeze rejected: Governor vows to appeal judge's ruling ordering immediate pay**

By Dave McKinney, Jon Seidel and Mitch Dudek

Staff reporters

SPRINGFIELD-A Cook County judge decided Thursday that Gov. Pat Quinn's move to stop paying lawmakers was unconstitutional and ordered Illinois Comptroller Judy Baar Topinka to pay them immediately - plus interest.

Cook County Judge Neil H. Cohen ruled that Quinn violated the section of the Illinois Constitution that holds that state lawmakers' salaries must not be changed during the term in which they were elected.

Quinn, who yanked lawmakers' salaries in a bid to leverage passage of stalled pension-reform legislation, said Thursday he would appeal and seek a stay of the judge's decision.

Cohen, who surprised both sides of the dispute with his unannounced decision on the matter Thursday, could take up the question of a stay as early as Friday morning.

The ruling was a decisive legal setback for the governor. Cohen's opinion, if upheld, would deprive Quinn of a key leverage point to hold over legislators' heads to help broker a deal in Springfield's long-running pension impasse.

But politically, win or no win, the governor stands to emerge from the fight in court with a talking point for his 2014 re-election bid. Voters seemed overwhelmingly to be in his corner in going after lawmakers' paychecks, even though Topinka on Thursday called the move "government by blackmail."

The legal fight started with the governor's July decision to use his line-item veto authority to zero out legislative pay after state lawmakers failed, once again, to solve the state's $100 billion-plus pension crisis and send a reform package to Quinn's desk.

Senate President John Cullerton (D-Chicago) and House Speaker Michael Madigan (D-Chicago) responded by suing the governor and Topinka to regain lawmakers' lost salaries, saying Quinn's move was a breach of the state Constitution and set a dangerous precedent.

When Quinn froze lawmakers' pay, he said he was acting on behalf of taxpayers who have seen the state take a fiscal hit as its pension crisis continues unabated, leading to repeated bond-rating downgrades.

After Thursday's ruling, Madigan declined to comment about the ruling through a spokesman, but Cullerton (D-Chicago) said the judgment "vindicated" the state's Constitution and upheld the balance of power between the legislative and executive branches of state government.

"Today the circuit court vindicated the Illinois Constitution as Judge Cohen ruled to protect and preserve the separation of powers. Now that the governor's actions have been answered by a court, I trust that we can put aside all distractions and focus on the goal of pension reform," Cullerton said in a statement.

In his ruling, Cohen noted the section of Illinois' Constitution that prohibits changing a legislator's salary during his or her term in office and buttressed that point by referring to the definition of "change" in two dictionaries.

"Under the common meaning of the word 'changes,' Article IV, Section 11 of the Illinois Constitution prohibits any alteration, whether an increase or a decrease, of a General Assembly member's salary during the term he or she was elected," Cohen wrote.

"In exercising his line-item veto to change the salaries of the General Assembly members during the terms in which they were elected, the governor violated Article IV, Section 11 of the Illinois Constitution," the judge said. "Therefore, the governor's line-item veto of House Bill 214 was constitutionally void and of no effect."

Cohen's ruling went on to order Topinka to begin issuing legislative paychecks, along with any interest owed on the amounts that Quinn illegally ordered withheld.

In a statement, Quinn disagreed with the judge's decision, saying the case "is about far more than just the governor's constitutional authority to suspend the appropriations for legislative paychecks.

"The reason I suspended legislative paychecks in the first place - and refused to accept my own - is because Illinois taxpayers can't afford an endless cycle of promises, excuses, delays and inertia on the most critical challenge of our time," Quinn said.

"I will not accept a paycheck until a comprehensive pension reform bill is on my desk, and neither should legislators," he said.

The case could wind up before Cohen as early as Friday morning as Quinn's side makes its case to stay the judge's ruling and allow the Illinois Supreme Court to weigh in on the case.

The governor's office is represented by outside legal counsel, Steven Pflaum, and a Quinn aide said Thursday it was unclear exactly where the legal tab now stands in defending against the Madigan/Cullerton lawsuit.

Topinka - who was represented in the case by Attorney General Lisa Madigan, the House speaker s daughter - said the comptroller's office has begun initiating the paperwork to pay legislators.

"Many of them will have the checks tomorrow, I figure," Topinka said at a news conference, referring to Friday, "and some who still get paper checks will take a little longer, but not by much."

Asked about Quinn's appeal, Topinka said: "The judge's order here, to me, takes precedence, the judge's words were 'you immediately start processing checks.' The attorney general, who is our backup on this as far as any legalities are concerned, says, 'You follow the judge's order.' So we are going to do exactly that."

The total for legislators' pay for August, September and October stands at $1,000,581 per month, though it is unclear how much additional interest will have to be paid out on top to comply with Cohen's order.

Republican gubernatorial hopeful Bill Brady, a state senator from Bloomington, described Quinn's original move to withhold legislative pay as "dirty politics" and said any appeal of Thursday's ruling by Quinn would be "a waste of money."