

Red Tape Review Rule Report (Due: September 1, 20 24)

Department Name:	Dept. of Management	Date:	7/23/2024	Total Rule Count:	9
IAC #:	543	Chapter/ SubChapter/ Rule(s):	Ch. 5 (repealing) and adding Ch. 4	Iowa Code Section Authorizing Rule:	25.2(3), 24.30, 24.31, 24.32
Contact Name:	Brad Horn	Email:	Brad.horn@dom.iowa.gov	Phone:	515-414-6187

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rules in Chapter 5 (Budget Appeals) are moving to Chapter 4 through this proposed change. The benefit of the rules are to provide a clear understanding of the public in how to interact with the board in relation to budget appeals.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved. The board handles very few budget appeals.

What are the costs incurred by the public to comply with the rule?

Public costs are cabined to the compliance obligations driven by statute. The rules only seek to comply with the code obligations.

What are the costs to the agency or any other agency to implement/enforce the rule?

Very minimal. Costs to the Department of Management are limited to small administrative costs.

Do the costs justify the benefits achieved? Please explain.

Yes. Costs are minimal currently and are not in any way increasing going forward.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes. The rules proposed to be included in new Chapter 4 are largely duplicative of the provisions found in current Chapter 5. However, the Chapter 5 current rules include many provisions that really belong in other areas of the rules. Moving the rules to Chapter 4 gives us an opportunity to clean up the entire rule set.

RULES PROPOSED FOR REPEAL (list rule number[s]):

All of Chapter 5.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 4. BUDGET APPEALS

543—4.1(24) *Budget appeals*. In resolving appeals filed under Iowa Code chapter 24, the board possesses broad discretionary power to determine the how objections are presented and the conduct of hearings and appeals. All proceedings will be simple and informal unless applicable law dictates formality.

543—4.2(24) *Inquiries*. Inquiries as to procedures may be directed to any board member at their respective telephone numbers or the executive secretary or board members at board's address.

543—4.3(24) *Filings*.

4.3(1) The number of signatures needed for a budget appeal under Iowa Code chapter 24 is based on voting records. Voting record information is obtained from the county auditor (election commissioner). Verification of the signatures will be made by the board.

4.3(2) For a budget or amendment appeal for all local governments other than a city, the appeal has to be signed by a number of persons in the municipality (local government) equal to one-fourth of one percent of those voting for the office of president of the United States or governor, as the case may be, at the last general election in said municipality, but the number will not be less than 10, and the number need not be more than 100 persons.

4.3(3) For a city budget or amendment appeal, the protest has to be signed by qualified electors equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the city, but the number will not be less than 10 and the number need not be more than 100 persons.

4.3(4) Filings of appeal petitions are to be with the county auditor of the county in which the local government is located or, if more than one county is involved, in that county where the principal administrative offices are located.

4.3(5) It is the responsibility of the county auditor to notify the board and the appropriate local government upon receipt of an appeal petition. Such filing by the county auditor is to consist of a copy of the appeal petition, together with a complete copy of the certified budget under appeal. Filing with the board is through its executive secretary.

4.3(6) Any appeal and supporting documents will be legible. Copies of relevant documents are acceptable.

4.3(7) Signatures will be accompanied by legible and full mailing addresses.

4.3(8) Petitioners need not have appeared and entered objection at the public hearing at which the protested budget was considered.

4.3(9) The board will extend statutory deadlines by the same elapsed time constraints when tardy certification occurs or whenever a different certification date is established by a special charter city.

4.3(10) If more than one appeal with reasonably related issues is filed against the same budget, the board may consolidate or concurrently consider the appeals in a single hearing and may issue a consolidated decision.

4.3(11) Appeals may be submitted in any form. The content of the appeal should include:

- a. Name of the local government budget being appealed.
 - b. Statutory authority under which the appeal is taken (Iowa Code chapter 384 for cities, and Iowa Code chapter 24 for all other local governments).
 - c. Decision being protested, summarizing key objections and basic reasons for such objections.
- This general statement may be expanded at the formal hearing with oral testimony, written briefs, exhibits or other substantive documentation.

4.3(12) Illustration of appeal format.

To: State Appeal Board

State Capitol

Des Moines, IA 50319

We, the undersigned, protest the action of the officials of ____ (local government) ____ in certification of their 20 ____ – ____ budget and request an appeal hearing.

We offer the following objections and reasons in summary form as basis for our appeal under Iowa Code chapter ____ :

Objection 1 (cite)

Reasons: (brief explanation)

Objection 2 (cite)

Reasons: (brief explanation)

(Add such other sections as needed to identify each basic objection and supporting reasons.)

Date Signatures Full mailing address with Zip code.

1.

2.

3.

10.

100.

(Additional signature sheets may be attached without the full heading, it being assumed those subscribing their names are fully aware of the stated appeal, objections and reasons. Minimal headings on attached sheets should indicate “Protest to ____ (local government) ____ Budget, 20 ____ – ____.”)

4.3(13) The burden is upon objectors for any proposed item that was included in the budget of the previous year with proposal for reduction or exclusion of the specific items. These arguments need not be fully developed in the appeal petition.

4.3(14) The burden is on the local government certifying or levying officials (as opposed to staff) to show any new item in the budget, or any increase in any item thereof, is necessary, reasonable and in the interest of the public welfare.

543—4.4(24) *Scheduling and notice of hearings.*

4.4(1) Dates for hearings will be set by the board. When a date is set, notice will be given by certified mail, return receipt requested, to the first ten names on the petition and to the appropriate officials of the local government.

4.4(2) This notice will be mailed at least five days prior to the hearing.

543—4.5(24) *Hearings.*

4.5(1) Hearings will be held at scheduled times within the county where the local government is located or headquartered. All parties assume their own expenses except as may otherwise be specifically provided by rule or law.

4.5(2) The board may conduct the hearing or may appoint a deputy (hearing officer) to conduct the hearing and report findings and recommendations to the board for its decision.

4.5(3) The hearing will be held in a public place and will be open to the public. The hearing will be conducted so as to give all parties a fair opportunity to be heard.

4.5(4) The board’s executive secretary will prepare an official record of all proceedings, including testimony and exhibits. Testimony taken by a mechanical recording device may be incorporated by reference if a transcript is not made. A reasonable amount will be charged to cover the cost of providing a duplicate tape or a copy of the transcription for either party. Tapes will be retained for five years following the decision.

4.5(5) If a party entitled to a hearing fails to appear, that party will be deemed to have waived opportunity for the

hearing or to participate in the hearing unless there is good cause for such failure.

4.5(6) Legal counsel will be at the discretion and expense of either party to the appeal.

4.5(7) Parties appearing before the board should select one or two persons to serve as primary spokespersons for their position.

4.5(8) The board will exclude evidence that is irrelevant, immaterial or unduly repetitious.

4.5(9) Written or printed materials will be in sufficient quantity to supply at least three copies for the board and one copy for the other party to the appeal.

4.5(10) Any party requesting a certified shorthand or court reporter will make arrangements for such attendance and expense.

4.5(11) At the outset of each hearing, the presiding board officer will indicate disposition of rulings on procedural questions and outline ground rules and time limitations to seek to give equal opportunity to both parties and basically permit:

- a. Objectors' basic arguments.
- b. Local government officials' basic arguments and rebuttal.
- c. Rebuttal by objectors.
- d. Presentation by authorized third party intervenors.
- e. If desired, closing remarks by objectors.
- f. If desired, closing remarks by local government officials.
- g. Time permitting, comments by interested citizens.
- h. Announcement as to adjournment, filing of additional briefs and the probable timing for the decision.

4.5(12) As deemed necessary, the board may examine the entire budget under appeal including cash reserves (balances), funding sources and expenditures of all types including actual or allowable transfers so those specific items under appeal may be fully examined and evaluated in perspective in arriving at a decision on the appeal.

4.5(13) The board will listen to testimony and arguments from all those concerned, take the matters under advisement, and make a decision setting out the findings of fact and conclusions of law on which the decision is based.

4.5(14) Board members or the presiding hearing officer will be free to ask questions of anyone at any point during any hearing.

4.5(15) The parties may agree upon pertinent facts in the proceedings by stipulation in writing filed at any stage in the proceedings or orally made at the hearing.

4.5(16) Any party served notice of hearing may seek to show cause for a continuance to a date certain at or before the time set for hearing. 4.5(17) The board may adjourn a hearing from time to time at its discretion.

4.5(18) Upon filing of a request by a third party to intervene, the board chairperson will determine whether the applicant has a legitimate interest in the proceedings and can contribute materially to the interpretation and settlement of the issues. Both original parties to the appeal will be advised of participation by a third party. If participation is denied, the written denial will include reasons for the denial.

4.5(19) If a K-12 school budget is appealed, that portion of expenditures attributable to the area education agency will be defended by a knowledgeable official of the area education agency.

4.5(20) At the conclusion of arguments, the board may entertain oral closing argument or additional briefing at its discretion.

4.5(21) Prior to a final decision, the board may reopen a hearing when new pertinent evidence becomes available that could not, with reasonable diligence, have been presented at the original hearing. This hearing need not be held in the county of original jurisdiction.

4.5(22) Any board member who has a possible conflict of interest in any matter resulting in a hearing will recuse themselves from serving during the hearing and from participation in the deliberations and decision resulting from the hearing. In the event one or more board members are recused, the board's decision will be made and issued by a majority of the remaining board members.

4.5(23) A member of the board does not have a conflict of interest by reason of residency within the geographical boundaries of the local government whose budget is appealed.

543—4.6(24) *Decision.*

4.6(1) The board will issue a written decision. The decision will include:

- a. Identification of parties and basic issues.
- b. Summary of findings of fact.
- c. Summary of conclusions of law.
- d. Decision.
- e. Reasons for decision.
- f. Order for implementation of the decision.

4.6(3) The board may approve, disapprove, or reduce items under appeal but in no event may it increase a budget, expenditure, tax levy or assessment or any item contained therein.

4.6(4) The decision is final and binding unless there is a rehearing or judicial review of the decision.

4.6(5) Either party may request rehearing, stating the specific grounds thereof and the relief sought, within 20 days after the issuance of the final decision. Such requests will be deemed denied unless the board sets a rehearing date within 20 days after the request is filed. This hearing need not be held in the county of original jurisdiction.

4.6(6) The board will notify the county auditor and both parties of the board's decision. Where other county auditors are affected, the county auditor is obligated to promptly inform the other county auditors of the board's decision and order.

543—4.7(24) *Amendments.*

4.7(1) Protests of amendments to budgets will be considered within the same general procedures and time constraints as are applicable to original budgets.

4.7(2) Any local budget has to be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and decision rendered before June 30. The amendment of a budget after May 31, which is properly appealed but without adequate time for hearing and decision before June 30, will be ruled null and void.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	9
Proposed word count reduction after repeal and/or re-promulgation	542 word decrease
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	46 (Chapter 543 will be down to zero restrictive words/phrases)

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.