

STATE APPEAL BOARD

In Re:	Winneshiek County)	Order
	Budget Appeal)	
)	
	FY 2005-2006)	May 18, 2005

BEFORE STATE AUDITOR DAVID A. VAUDT; STATE TREASURER MICHAEL L. FITZGERALD; AND THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, MICHAEL L. TRAMONTINA:

A hearing on the above captioned matter was held pursuant to the provisions of Section 331.436 and Chapter 24 of the Code of Iowa on April 20, 2005. The hearing was before a panel consisting of Stephen Larson, Deputy Treasurer and presiding hearing officer, Office of the State Treasurer; James B. Nervig, County Budget Director, Department of Management; K. David Voy, Manager, Office of the State Auditor; and Luke Donahe, Investment Officer, Office of the State Treasurer.

The primary spokesperson for the petitioners was Jerry Freund, City Administrator of the City of Decorah. The spokesperson for Winneshiek County was Andrew F. Van Der Maaten, Winneshiek County Attorney.

Upon consideration of the specific objections raised by the petitioners, the testimony presented to the hearing panel at the public hearing, the additional information submitted to the hearing panel both before and after the hearing, and after a public meeting to consider the matter, the State Appeal Board has voted to sustain the fiscal year 2006 budget as filed.

PROCEDURAL HISTORY

The Winneshiek County fiscal year (FY) 2006 proposed budget summary was published in the Decorah Newspaper, Ossian Bee and Calmar Courier newspapers on February 24, 2005. The budget was adopted by the Winneshiek County Board of Supervisors on March 9, 2005.

A petition protesting the certified FY 2006 Winneshiek County budget was filed with the Winneshiek County Auditor on March 23, 2005 and was received by the State Appeal Board on March 25, 2005. The petitioners' objection and their reasons listed on the petition document are as follows:

- We object to the funding of the Sheriff's Department being entirely included within the County's General Fund.

In support of their objection the petitioners submitted the following reasons:

- The cities of Decorah, Ossian and Calmar provide for municipal law enforcement services by funding these services with local tax revenues. This fact was recognized with the adoption of the current FY 2005 and previous County budgets.

- The FY 2005 County budget acknowledged the efforts of these cities by providing approximately fifty-five percent (55%) of the Sheriff's Department expenses paid through the General Fund. The FY 2006 budget fails to similarly recognize the tax burden upon the residents of these cities necessary to provide for municipal law enforcement services.
- The absence of a proportionate allocation to General and Rural funding for law enforcement services, as recognized in the FY 2006 budget, will impose an unwarranted tax increase of approximately \$.30 per thousand dollars of assessed valuation to property owners within the cities of Winneshiek County, while reducing the tax burden by approximately \$.58 per thousand dollars of assessed valuation to property owners within the unincorporated areas of the county.
- No relevant data justifying the added urban tax burden with respect to County law enforcement services received or expected has been presented.

On April 5, 2005 the State Appeal Board gave notice of a public hearing for the FY 2006 Winneshiek County budget for Wednesday, April 20, 2005.

DISCUSSION

The petitioners and the representatives of Winneshiek County provided various written summaries, exhibits and verbal commentary in support of their positions. A summary of this information presented at the public hearing is as follows:

PETITIONERS

Jerry Freund, City Administrator of the City of Decorah represented the petitioners. In his opening statement, he indicated that the petitioners are not proposing any reduction or exclusion of any item in the FY 2006 budget. However, the petitioners are requesting that the Winneshiek County FY 2006 budget for those expenditures related to the Sheriff's Department be funded by both the General Fund and the Rural Services Fund.

This budgetary policy has been the practice in recent past budgetary periods. For example in FY 2000 Winneshiek County had provided funding for the Sheriff's Department from both the General Fund and Rural Services Fund. Also, in the last six fiscal years the personnel expenses for seven patrol deputies were included in the Rural Services Fund and the General Fund covered all other capital and operating expenses for the Sheriff's Department. Additionally, Mr. Freund pointed out that in 2002, the Board of Supervisors approved the adoption of the FY 2003 budget and a petition was filed in response to the funding split between the General and Rural Services Funds for law enforcement services. As a result of that petition, The State Appeal Board issued an order to sustain the FY 2003 budget on the basis that "the law enforcement costs to be paid from the Rural Services Fund are primarily intended to benefit those persons residing in the County outside of incorporated city areas." Based on that conclusion, Winneshiek County continued with a similar funding split in unanimously adopting its budgets for the subsequent two fiscal years.

Finally, on this issue the petitioners maintain that given no valid statistical evidence has been shown justifying a conclusion different from that arrived at by the State Appeal Board in it's

order of 2002, and that the Rural Services Fund should continue to be relied upon to cover those expenses related to the seven patrol deputies.

In conclusion, the Petitioners closing remarks offered six points and they are as follows:

1. The data, particularly that regarding the issuance of citations and calls for service, reflecting the workload of the seven uniformed patrol deputies reveals that a preponderance of their services are conducted within the unincorporated areas.
2. The Rural Services Fund in accordance with the Code of Iowa requirements should be designated as the appropriate funding source for the costs associated with the seven deputies.
3. The rationale employed in the May 23, 2002 Order and Basis of Decision issued by the State Appeal Board is equally relevant and significant in this case.
4. The recognition by the Board of Supervisors that other County services that "are primarily intended to benefit those persons residing in the County outside of incorporated city areas" should also apply to the law enforcement services of these seven deputies.
5. The opportunity to reduce property taxes for all County tax payers by splitting the costs for the Sheriff's Department between the General and Rural Services Funds.
6. No demonstrated changes or unusual circumstances within the County's FY 2006 budgetary considerations have been presented to justify the shift in funding for the Sheriff's Department.

Finally, Mr. Freund maintains the actions to budget Sheriff's Department expenditures entirely out of the General Fund would result in an increase in the property tax burden to the General Fund.

WINNESHEIK COUNTY RESPONSE

Andrew F. Van Der Maaten, Winneshiek County Attorney, was the primary spokesperson for Winneshiek County. A summary of the County response is as follows:

Mr. Van Der Maaten stated the County Board of Supervisors concluded through the budgetary process, which ended with the adoption of the proposed FY 2006 budget that the Sheriffs' expenditures would be allocated out of the General Fund. Additionally, those expenditures are for services which benefit all residents of Winneshiek County and, therefore, are more properly allocated to the General Fund.

The County referenced the "Home Rule" power, through the Iowa Constitution which grants counties authority "to determine local affairs and government" as long as the county's actions are not "inconsistent with the laws of the general assembly". The county spokesperson acknowledged that Winneshiek county does not have the right to levy any tax unless expressly authorized by the general assembly, but goes on to state that there is no constitutional home rule limitation on their expenditure of funds.

Based on the provisions of "home rule", Mr. Van Der Maaten asked the question, "Is moving a portion of the expenses of the Sheriff's patrol services from the Rural Services Fund to the General Fund "inconsistent" with the laws of the general assembly?" Mr. Van Der Maaten went on to cite numerous court decisions in support of his argument of the home rule authority.

Mr. Van Der Maaten concluded his remarks by stating the decision of the County in this case was an appropriate exercise of legislative action and that the State Appeal Board should deny the petitioners' request and uphold the budget for FY 2006.

The spokesperson for the petitioners and the county responded in their rebuttal and closing comments by commenting further on information provided in the written materials. Additionally, the petitioners and the county provided additional materials in the days preceding and following the hearing.

FINDINGS OF FACT

1. Winneshiek County, subject to various state laws and administrative rules, shall prepare and adopt a budget, certify taxes and authorize expenditures.
2. Winneshiek County's adopted budget, budget hearings, and property tax levies were adopted in accordance with all statutory provisions.
3. Section 24.27 of the Iowa Code provides persons who are affected by any proposed budget, expenditure or levy, or by an item thereof, may appeal. The petitioners met the requirements and pursuant to Sections 24.28 and 24.29, a hearing was scheduled and conducted.
4. Section 24.28 of the Iowa Code states "At all hearings, the burden shall be upon the objectors with reference to any proposed item in the budget which was included in the budget of the previous year and which the objectors propose should be reduced or excluded; but the burden shall be upon the certifying board or the levying board, as the case may be, to show that any new item in the budget, or any increase in any item in the budget, is necessary, reasonable, and in the interest of the public welfare. "
5. Section 24.30 of the Iowa Code states in part "It shall be the duty of the state board to review and finally pass upon all proposed budget expenditures, tax levies and tax assessments from which appeal is taken and it shall have power and authority to approve, disapprove, or reduce all such proposed budgets, expenditures, and tax levies so submitted..."
6. The County operates under the "Home Rule" amendment to the Iowa Constitution.

CONCLUSIONS OF LAW

The State Appeal Board has jurisdiction over the parties and the subject matter of this appeal, pursuant to Iowa Code Sections 24.28 and 331.436.

BASIS OF DECISION

While the Code of Iowa designates certain services as general county services or rural county services, expenditures to operate the Sheriff's Office are not included in those designated services. Under Home Rule and the Code of Iowa, each county determines whether operation of the Sheriff's Office is a general county service or a rural county service.

ORDER

The State Appeal Board rejects the Petitioners' objection and sustains the Fiscal Year 2006 Winneshiek County Budget as adopted.

STATE APPEAL BOARD



David A. Vaudt
Chairperson



Michael L. Tramontina
Vice-Chairperson



Michael L. Fitzgerald
Member