

## STATE APPEAL BOARD

In Re:	Ringgold County Assessor ) Budget Appeal ) FY 2015 )	Order  April 28, 2014
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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, DAVID ROEDERER; STATE AUDITOR MARY MOSIMAN; AND STATE TREASURER MICHAEL L. FITZGERALD.**

A hearing on the above captioned matter was held pursuant to the provisions of Chapter 24 of the Code of Iowa on April 10, 2014. The hearing was before a panel consisting of Mr. Luke Donahe, Investment Officer, Office of the State Treasurer and presiding Hearing Officer; Ms. Carrie Johnson, Property Valuation and County Budget Administrator, Department of Management; and Ms. Suzanne Dahistrom, Manager, Office of the State Auditor.

The primary spokesperson for the petitioners was Mr. Kevin Kilgore. The primary spokesperson for the Ringgold County Assessor was Mr. Neil Morgan, County Assessor.

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 Ringgold County Assessor's fiscal year (FY) 2015 budget as described herein.

### PROCEDURAL HISTORY

The FY2015 Ringgold County Assessor's proposed budget summary was published in the Mount Ayr Record-News on February 6, 2014. The budget was adopted at a public meeting held on February 18, 2014.

A petition protesting the certified FY2015 Ringgold County Assessor budget was filed with the Ringgold County Auditor on March 25, 2014 and was received by the State Appeal Board on March 26, 2014. The petitioners' objections and their reasons listed on the petition document are as follows:

- Objection number one stated adopted budget represents a 20.9% budget increase over two years.
- Objection number two stated the estimated ending fund balance for the proposed budget is less than 25% of the amount which can be levied at the maximum allowable levy rate.
- Objection number three stated the Iowa Department of Management (IDOM) Form 677 provides no actual budget balance for any fund or as a total (lines E&F). Repeat x3.
- Objection four stated the taxable valuation list is incorrect based on input from the County Assessor. Repeat x2.

The petitioners asked the adopted FY2015 budget expenditures be reduced to the FY2014 budgeted expenditure total to allow the Assessment Expense fund carryover balance to be returned to 25% of the amount available in taxes from the maximum levy rate.

### **DISCUSSION**

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

### **PETITIONERS**

Mr. Kevin Kilgore represented the petitioners. Mr. Kilgore referenced Petitioners' Exhibit 4, which included the objections as well as two pages from the Assessor's budget and a letter received by Mr. Kilgore from the County Auditor in response to a taxable valuation information request submitted to the County by Mr. Kilgore.

- Objection number one stated the adopted budget represents a 20.9% budget increase over two years. Mr. Kilgore stated the adopted budget also represents a 9.2% increase in direct personnel costs (pay/FICA/IPERS/health insurance) over two years. He stated the Assessor's levy is at the \$0.67500/\$1,000 of taxable valuation cap and the budgeted direct personnel cost increases for the office for FY2015 use all but approximately \$20,000 of the levy. He asserted the cost of operation of the office, exclusive of direct personnel costs, is budgeted at slightly more than \$32,000, an annual deficit which will preclude ever returning to a 25% carryover balance, but which serves to illustrate the operation of the 25% carryover "recommendation".
- Objection number two stated the estimated ending fund balance for the proposed budget is less than 25% of the amount which can be levied at the maximum allowable levy rate.
- Objection number three stated the Iowa Department of Management (IDOM) Form 677 provides no actual budget balance for any fund or as a total (lines E&F).
- Objection number four stated the taxable valuation list is incorrect based on input from the County Assessor. Mr. Kilgore referenced the letter from Petitioners' Exhibit 4 which he received from the County Auditor regarding a taxable valuation information request. In the response, the County Auditor stated she believed she complied with Mr. Kilgore's record request to the best of her ability and required additional clarification from Mr. Kilgore regarding additional documents he sought.

### **RINGGOLD COUNTY ASSESSOR RESPONSE**

Mr. Neil Morgan, County Assessor, served as the primary spokesperson for the County Assessor's budget.

In the response to the petition, he expanded upon the written remarks submitted in the Assessor's Exhibit 1. Mr. Morgan's written comments and statements presented the following response to the petitioners' objections:

- In response to Objection 1, Mr. Morgan indicated the disputed increase over two years was neither excessive nor unexpected. He stated the base year was about

\$5,500 below normal because an employee left. He stated the Assessor's office is dealing with an agricultural land valuation unfunded State of Iowa mandate and is meeting the mandate at a substantially lower cost than surrounding counties.

- In response to Objection 2, Mr. Morgan indicated he is not familiar with a cash balance measuring stick of 25% of the maximum allowable levy and this scenario may cause counties with high valuations to increase cash balances to meet this standard, potentially in excess of annual expenditures. He stated he is meeting the barometer of ending cash balance less than 25% of budgeted expenditures. Mr. Morgan stated the maximum allowable levy of \$0.67500/\$1,000 of taxable valuation plus FICA and IPERS is not being used in the FY2015 budget.
- In response to Objection 3, Mr. Morgan stated he is required to use the IDOM forms as provided.
- In response to Objection 4, Mr. Morgan stated the petitioners do not believe the Rural Improvement Zone (RIZ) is legal and this matter should be brought to the correct authorities. He affirmed the Assessor is required to use the values provided and discussion of the RIZ valuations does not pertain to the Assessor's budget. Mr. Morgan referenced the following statements from the Order issued by the State Appeal Board in regards to the Ringgold County Assessor's Budget Appeal for FY2014:
  - i. According to Iowa Code section 24.9, "The department of management shall prescribe the form for public hearing notices for use by municipalities."
  - ii. Mr. Kilgore submitted a Petition for a Declaratory Order to IDOM on February 8, 2012 requesting correction of the taxable valuation list prior to budget approval by the various taxing entities in Ringgold County. IDOM responded to his Request for a Declaratory Order and took no further action.

### **PETITIONER'S REBUTTAL**

In his rebuttal to the Assessor, Mr. Kilgore referenced Petitioners' Exhibit 7, his opening statement previously submitted during the budget appeal hearing held for the Ringgold County Agricultural Extension District earlier on April 10, 2014. He questioned Mr. Morgan's ability to serve as a legitimate spokesperson for the Conference Board as Mr. Morgan is not a member of the Conference Board.

Mr. Kilgore referenced Petitioners' Exhibit 4A distributed during the hearing and stated his objection represents a six year odyssey of protesting overtaxing and overspending. He stated much of his professional life was in the military where overspending a budget for which you were accountable invokes penalty and the spending environment was "live within your means". Mr. Kilgore said it would be nice if government did the same.

Mr. Kilgore countered Mr. Morgan's statement he has not heard of the measuring stick of 25% of the maximum allowable levy by referencing Petitioners' Exhibit 6, which included portions of the Order issued by the State Appeal Board in regards to the FY2010 Ringgold

County Budget Appeal, the FY2012 Ringgold County Budget Appeal as well as the list of petitioners' objections from the FY2013 Ringgold County Assessor's Budget Appeal.

He indicated Mr. Morgan's statement of his role as "...the clerk which certifies the budget..." establishes no legal authority and the statement "...the maximum allowable levy of \$0.67500/\$1,000 of taxable valuation plus FICA and IPERS..." has no statutory basis. Mr. Kilgore contends the maximum allowable levy is meant to pay all of the expenses of the Assessor's Office and the 25% carryover amount is meant to be the balance between overspending and overtaxing.

### **MEMBERS OF THE PUBLIC**

No members of the public spoke during the public comment time.

### **FINDINGS OF FACT**

1. Iowa Code section 24.27 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 Iowa Code sections 24.28 and 24.29, a hearing was scheduled and conducted.
2. The Ringgold County Assessor's FY2015 budget reflects \$3,764 more in property tax and utility replacement tax, or \$3,660 in property tax only, than in FY2014.
3. For the FY2015 budget, the Assessor's budget levied an Assessment Expense Fund tax rate of \$0.67500/\$1,000 of taxable valuation. In FY2014, the Assessor's budget levied a tax rate of \$0.67449/\$1,000 of taxable valuation for the Assessment Expense Fund. The maximum tax rate for the Assessment Expense Fund is \$0.67500.
4. Iowa Code section 97B.9(4) allows every political subdivision to levy a tax sufficient to meet its IPERS obligations if any tax is needed. In addition, Iowa Code section 97C.10 allows a political subdivision to levy property tax to meet its obligation to pay its FICA contributions. Assessor's are included within the definition of political subdivisions and thus are allowed to levy for FICA and IPERS if needed. Although the FICA and IPERS levies were allowed, those levies were not used in the Ringgold County Assessor's FY2015 budget. The budget only uses the Assessment Expense Fund levy.
5. The FY2015 budgeted ending fund balance in the Assessment Expense Fund is \$41,430, or approximately 21% of expenditures.
6. Budgeted expenses increased \$6,000 overall. The expenditure increases are primarily found in line items related to Salaries, FICA, IPERS, Health/Group Insurance-Employer Share, Mileage and Travel.
7. Mr. Kilgore stated petitioners - on behalf of what he believes are the majority of the citizens in Ringgold County - believe the interests of the taxpayers in Ringgold County will be best served by minimizing the costs of government - limiting budget growth - in order to minimize property tax increases. However, Mr. Kilgore serves as a spokesperson only for himself and those individuals who signed the various budget protest petitions.

8. According to Iowa Code section 24.9, "The department of management shall prescribe the form for public hearing notices for use by municipalities."
9. Mr. Kilgore submitted a Petition for a Declaratory Order to IDOM on February 8, 2012 requesting correction of the taxable valuation list prior to budget approval by the various taxing entities in Ringgold County. IDOM responded to his Petition for a Declaratory Order and took no further action.

### CONCLUSIONS OF LAW

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

### BASIS OF DECISION

Iowa Code section 24.28 states, in part, "At all hearings, the burden shall be upon the objectors with reference to any proposed item in the budget which was included in the previous year and which the objectors propose should be reduced or excluded...". The Code continues, "...the burden shall be upon the certifying board or the levying board, as the case may be, to show 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."


The Ringgold County Assessor's budget increase in property tax and utility replacement tax asking is \$3,764, or \$3,660 in property tax only, an increase of 2%, with a total expenditure increase of \$6,000. Much of the expenditure increases for the Assessor's Office are found in line items related to salaries, FICA, IPERS, insurance, mileage and travel.

The petitioners did not adequately satisfy the burden of proof requirement to justify a change in the FY2015 budget. The Assessor adequately satisfied the burden of proof requirement for the increases in the FY2015 budget.

### ORDER

Based on the information provided by the parties involved and the Iowa Code, the State Appeal Board sustains the FY2015 Ringgold County Assessor's budget as adopted.

### STATE APPEAL BOARD



Mary Mosiman  
Chairperson



Michael L. Fitzgerald  
Vice Chairperson



David A. Roederer  
Member

4/28/14  
Date