

STATE APPEAL BOARD

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In Re: Winneshiek County) Order
Budget Appeal)
)
FY 2002-2003) May 23, 2002

BEFORE STATE AUDITOR, RICHARD D. JOHNSON; STATE TREASURER, MICHAEL L. FITZGERALD; AND THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, CYNTHIA P. EISENHAUER:

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 May 1, 2002. The hearing was before a panel consisting of Stephen Larson, Executive Officer III and presiding hearing officer; Office of the State Treasurer, Jim Nervig, County Budget Director, Department of Management; and Kevin J. Borchert, Professional Development Director, Office of the State Auditor.

The spokespersons for the petitioners were Mary Brincks, Dean Darling, and Carlton Kijos. Michael Bergan represented the County.

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 Winneshiek County's fiscal year (FY) 2003 budget as described herein.

PROCEDURAL HISTORY

The FY2003 Winneshiek County proposed budget summary was published in the Decorah Newspaper on February 26, 2002, in the Calmar Courier on February 26, 2002, and in the Ossian Bee on February 28, 2002. The budget was adopted on March 13, 2002.

A petition protesting the certified FY2003 Winneshiek County budget was filed with the Winneshiek County Auditor on March 22, 2002, and was received by the State Appeal Board on March 26, 2002. On the petition document, the petitioners objected to the payment of law enforcement expenditures out of the Rural Services Fund.

Their reason for the objection, from the petition document, is that the County's public safety department program is primarily intended to benefit all County residents, not just rural residents. Therefore, the expenditures should be paid from the General Fund.

DISCUSSION

The petitioners and the representatives of Winneshiek County provided various written summaries and exhibits in support of their positions. A summary of this information is as follows:

PETITIONERS

Mary Brincks gave the petitioners' opening remarks, in which they requested the State Appeal Board take the following action:

The County Board of Supervisors should be required to revise the FY2003 budget and subsequent County budgets to reflect that all Sheriff Department expenses come from the General Fund until such time as the duties of the Sheriff Department are changed, or until appropriate 28E agreements are reached with the incorporated areas in the County.

The petitioners explained their appeal in greater detail and a summary is as follows:

In 1999, the State Appeal Board directed the County to reduce its General Fund carry-over balance by \$250,000. The petitioners believe that the County circumvented this decision by shifting approximately \$330,000 in expenses (\$307,000 in Sheriff expenses) from the General Fund to the Rural Services Fund in their revised budget. Farm Bureau requested that this revised budget not be approved. However, the State Appeal Board concluded that this shift was permissible as long as the expenditures "are primarily intended to benefit those persons residing in the County outside of the incorporated areas."

Iowa district court decisions were recently reached in Lyon County and in Story County on the issue of shifting uniform patrol expenses from the General Fund to the Rural Services Fund. The courts sided with the County Board of Supervisors in both cases. However, the petitioners feel that the FY2003 budget for Winneshiek County is significantly different from these cases for the following reasons: 1) the petitioners stated that incorporated areas of a County are required to provide their own police protection separate from that of the County Sheriff and the Iowa state patrol. Only the City of Decorah has 24 hour police coverage. The other seven cities have part-time or no police protection. Story and Lyon Counties were at least attempting to comply with the above statute. 2) No city in Winneshiek County has a 28E agreement with the County Sheriff for protection and services and Story and Lyon Counties did have these agreements with their urban areas. Because only the City of Decorah has its own police protection in the County, the Winneshiek County rural residents are bearing the financial burden of providing most of the County with police protection.

Moreover, urban areas are statistically more inclined to need police protection. Rural residents in Winneshiek County will be paying for 88% of the total uniform patrol expenses out of the General and Rural Services Funds. The petitioners believe that it is unfair for the rural minority of 47% to be paying for 88% of the police protection in the

County. Because no City has a 28E agreement with the County and there is virtually no protection in the County other than the County Sheriff, it then becomes clear that the County Sheriff is not primarily intended to benefit only the rural residents.

The petitioners believe that the Winneshiek County Board of Supervisors actions have been unreasonable, arbitrary and capricious for the following reasons: 1) For the FY2000 budget, there had been no consideration by the Board to shift any Sheriff expenditures to the Rural Services Fund until after the State Appeal Board directed LOST revenues for the unincorporated areas be placed in the Rural Services Fund. 2) There was no financial necessity for the Board of Supervisors to make the shift in expenses. 3) When the shift in expenses occurred, there was no change in Sheriff Department services and still today no changes exist. The taxpayers that contribute to the Rural Services Fund had to absorb the increases resulting from the shift of expenses.

WINNESHIEK COUNTY RESPONSE

Michael Bergan, Winneshiek County Supervisor, gave the County response to the petitioners' objection and a summary is as follows:

The Sheriff's Department employs ten officers and two clerks. Winneshiek County provides funding for the Sheriff's Department from both the General Fund and the Rural Services Fund. 46.5% of the County Sheriff's Department budget is being paid from the Rural Services Fund. The General Fund has budgeted Sheriff's Department expenditures of \$423,057 and the Rural Services Fund has budgeted Sheriff's Department expenditures of \$367,087. The portion of the budget that is included in the Rural Services Fund is limited to salary expenses for seven rural patrol deputies in the amount of \$367,087. The rationale for including the rural patrol deputies' salaries in the Rural Services Fund is that the County believes these services are "primarily intended to benefit" the residents of Winneshiek County that reside in the unincorporated areas of the County.

Further, Winneshiek County asserts that there is no relevant factual distinction between its situation and the situations examined by the Story and Lyon County cases. 85% of the calls for service and 85% of citations written in the County during the last fiscal year were in the rural areas of the County; therefore, most of the patrol services were provided to the rural unincorporated areas.

Presently, Ridgeway, Spillville, Castalia, Fort Atkinson, and Jackson Junction do not maintain a police force and do not have 28E agreements with the County for law enforcement services. The fact that these towns do not have 28E agreements or police protection does not mean that the services of the rural patrol deputies are not provided for the primary benefit of the residents of the rural areas of the County. It is the responsibility of the towns, not the County, to provide law enforcement services.

The decision to pay for salaries and benefits from the Rural Services Fund is a legislative decision. It is clear that the legislature has given counties broad discretion in determining what services were rural services under the statute in Iowa Code Sections 331.421 through 331.428 of the Code of Iowa. Winneshiek County took into account the number of calls for service and the number of citations issued in those rural areas in making its allocation of expenditures to the Rural Services Fund and this legislative decision was made in a careful and reasonable manner.

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 and 331.436.

FINDINGS OF FACT

A decision was issued in March 2002, in the Iowa District Court for Story County, in Barbara Finch and David Deyoe, Plaintiffs vs. Story County Board of Supervisors, Defendants.

A decision was issued in March 2002, in the Iowa District Court for Lyon County, in Lyon County Farm Bureau, Plaintiff vs. Lyon County Auditor, and the Lyon County Board of Supervisors, Defendants.

In both of the aforementioned cases, the courts have ruled in favor of the County Boards of Supervisors and in neither case did the petitioners appeal the decisions reached.

State of Iowa Code Section 372.4 states that the mayor "shall appoint the marshal or chief of police except where intergovernmental agreement makes other provisions for police protection..."

State ex rel Johnson v Allen 569 N.W.2d 143, 146 (IA 1997) states that "it is the city's duty to provide the residents of Mingo with police protection; it is not the duty of Jasper County."

BASIS OF DECISIONS

In Lyon County Farm Bureau, Plaintiff vs. Lyon County Auditor, and the Lyon County Board of Supervisors, Defendants, the Court ruled that, "Based on the foregoing, the court concludes that the uniform patrol services provided by the Lyon County Sheriff's Office are primarily intended to benefit those residents residing in the unincorporated areas of Lyon County, and accordingly meet the statutory definition of a "rural County service" as defined in Iowa Code Section 331.421(8) (1999). The court further concludes that the Lyon County Board of Supervisors acted within their statutory authority as set forth in the Iowa Code Section 331.428(2) (1999) in allocating the costs of those uniformed patrol services to the Rural Services Fund. Finally, the court

concludes, as it did in its ruling on the Board's motion for summary judgment, the fact the Board may have previously paid for the uniformed patrol services out of the General Fund is immaterial, and is no longer a concern. What is important is that the Board has now properly allocated the uniformed patrol expenses as payable out of the Rural Services Fund."

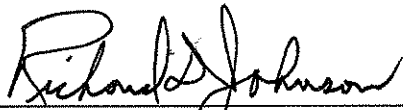
In Barbara Finch and David Deyoe, Plaintiffs vs. Story County Board of Supervisors, Defendants, the Court ruled that, "A court should not interject itself in a budgetary dispute between citizens and their elected representatives over the appropriation of tax revenues and particular expenditures." It further concluded that, "The action of the Board in this case was appropriate and will not be disturbed."

The State Appeal Board concurs 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."

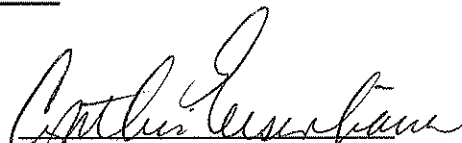
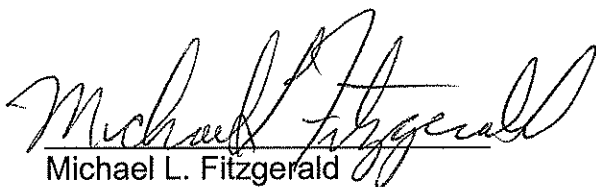
ORDER

Based on the information provided by the parties involved and the review of historical data of Winneshiek County, the State Appeal Board sustains the FY2003 Winneshiek County Budget as adopted.

STATE APPEAL BOARD



Richard D. Johnson
Chairperson


Cynthia P. Eisenhower
Vice Chairperson

Michael L. Fitzgerald
Member

5/28/02
Date