

STATE APPEAL BOARD

In Re: **Floyd County) Order**
 Budget Appeal)
 FY 2023) **June 6, 2022**

BEFORE THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, KRAIG PAULSEN; STATE AUDITOR ROB SAND; AND STATE TREASURER MICHAEL L. FITZGERALD.

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 11, 2022 in Charles City, Iowa. The hearing was before a panel consisting of Mr. Kyle Harms, Treasury Investment Officer, Office of the State Treasurer; Ms. Carrie Johnson, Property Valuation and County Budget Administrator and presiding hearing officer, Joseph Barry, Risk Manager and State Appeal Board Contact, Department of Management; and Ms. Kathy Rupp, Manager, Office of the State Auditor.

The primary spokesperson for the petitioners was Mr. Michael Byrne. The primary spokesperson for Floyd County was County Board of Supervisors Chair Doug Kamm.

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 FY2023 budget with one reduction to expenditures.

PROCEDURAL HISTORY

A public hearing was held on the FY2023 Floyd County budget was adopted on March 28, 2022. The budget was then adopted via resolution on March 31.

A petition protesting the certified FY2023 Floyd County budget was filed with the Floyd County Auditor on April 11, 2022 and was received by the State Appeal Board on April 11, 2022. The petitioners' objections and their reasons listed on the petition document are as follows:

Objection Number One – The process of public notification and procedural requirements were deficient.

- a) The review process of the budget including review and submission of budget proposals and change order were not sufficiently identified to comply with the requirements of the Iowa open meetings law for disclosure of Board of Supervisors' activity with regard to the budget expenditures for tax year herein contested and protested; and
- b) The County Board and Auditor's failure to post the certified version maximum tax levy on either the Floyd County website and Floyd County Auditor's Facebook page; and
- c) The approved resolution/affidavit filed is invalid as the proceeding requirement of posting the certified version that maximum levy on either web site did not occur and are a violation of 331.433A, and failure to provide and maintain proof of required publication in the budgeting process; and

- d) "A carousel" of Facebook posts does not provide continual access to information as is adequate as required notice under the Iowa statute.
- e) The Compensation Board recommendations were approved after budget hearing process and budget approval.

Objection Number Two – Each and every increase in any and every line item of the budget is due to the need to maintain or reduce all levels of expenditures given.

- a) The increase of 11.4% in one year of the General Services Tax Levy is unsustainable and arbitrary in the face of adequate reductions in budget expenses and total county record property tax levy with an increase of 10.5% in one year.
- b) Failure to maintain adequate reserves as indicated in the February 28 public hearing notice for contingency expenses.
- c) Failure to address reduction in total taxable valuation of property for FY2023 by \$18.3 million.
- d) American Rescue Plan funds are inappropriately allocated to fund overruns on law enforcement center and other proposed general expense increases of FY2023 budget.
- e) Failure to address in minutes of March 7, 2022 meeting that the budget does not address the county's projected ending fund balances or specify expenditures from the American Rescue Plan as discussed in said meeting.
- f) The budget proposed fails to maintain adequate cash reserve funds to cover cash flow expenditures from July 1 to September 1 of FY2023.
- g) Budget risks General Supplemental Fund balance ending with a negative balance, corrected only by a 73.3% increase in General Supplemental tax levy and fails to adequately present major reasons for increases

Objection Number Three - The proposed budget fails to clearly and adequately specify the income sources to be used by the county for the courthouse and jail renovation construction and the true cost of the same.

DISCUSSION

The petitioners and the representatives of Floyd County 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. Michael Byrne represented the petitioners.

Mr. Byrne began his presentation by speaking from Petitioners' Exhibits A-F, which included the opening statement, minutes and resolution documents and American Rescue Plan documents (i.e., Coronavirus State & Local Fiscal Recovery Funds). His statement, via both oral and written documentation included the following points:

- The key concern is the notice posting for public hearing. The petitioners argue notice was not permanently published on all four of the public forums adopted by Floyd County for publication. The petitioners also state the publication was not timely as no record was made to verify the completion and continuation and preservation of the publication of those notices. Testimony was provided by Mr. Scott Heinz where he stated an inability to find the notices on the County's web site. Testimony was also provided by Mr. Pat

Palmer, an information technology professional, who shared a series of questions including the County's website archive program and security and authentication procedures.

- The petitioners' secondary issue is the improper documentation of recording of the vote of resolutions and failure to maintain records of minutes.
- The petitioners assert that reductions in income must be met by reductions in expenses and that all line item expenses must be maintained to the level of the prior year due to reduction of income and available resources and short-falls must be met with corresponding reductions in expenditures.
- The petitioners feel the use of Coronavirus State & Local Fiscal Recovery Funds was intended to be limited to resources needed to respond to the pandemic and its economic effects, and the construction of county jails is prohibited.
- The petitioners ask the FY2023 budget be void on the basis that proper notice was not given and that the County be ordered to adopt its prior year budget without increase. They also request actions of the County where resolutions were adopted without proper rollcall be voided and that the tax increase of 18% in the FY2023 budget be rescinded and Coronavirus State & Local Fiscal Recovery Funds expenditures be voided.
- In closing, the petitioners feel that any budget not followed is meaningless and the taxpayers have not had the ability to participate in the process. Mr. Byrne also expressed frustration the County Auditor had not explained line item increases.

FLOYD COUNTY RESPONSE

County Board of Supervisors Chairman Doug Kamm was the primary spokesperson for Floyd County. County Auditor Gloria Carr also provided response to questions and comments. In the response to the petition, he referenced the County's Exhibits 1-8, which included the County's opening statement, FY2023 Floyd County budget, Board of Supervisor (the Board) minute summary and fund balance policy, financial documents, elected officials' supervisor salary resolution. The statement, via both oral and written documentation included the following points:

- In response to Objection 1a, it is the Board's position that every agenda item was sufficiently and timely provided and posted for the budget cycle. In regards to the requirements of 331.433 the County shared Exhibits 1 and 2 which describe various actions by the Board.
- In response to Objection 1b, 1c and 1d , the County stated they published the Maximum Tax Levy public hearing notice in their official newspapers, Charles City Press and Nora Spring-Rockford Register. They also stated they posted the notice on the Auditor's portion of the County web site and as a "New Flash" item for their web site homepage. They stated they posted the notice on the County Auditor Facebook page on February 18.
- In response to Objection 2a, 2b, 2c, 2f, and 2g, the County reviewed the compensation board process and the subsequent action of the Board and expressed they believe they complied with the Iowa Code.

- In response to Objection 2d and 2e, the County stated it is empathetic to efforts to reduce or maintain expenditures as no one wants to pay higher taxes. Action of the Appeal Board on June 7, 2021 reduced the Floyd County's FY2022 budgeted General Services tax asking by \$1,142,035 to \$4,853,764 and the Rural Services tax asking by \$42,264 to \$2,119,559. In response, the County made several accommodations to the reduction including not shifting certain items from General Basic to General Supplemental, setting departmental appropriations at 90% and other steps to be mindful of current expenditures and fund balance status. They reported declines in taxable valuations were discussed with the County Assessor and included Board of Review reductions, private property becoming exempt and reductions in residential valuation in Charles City. The county reported they are aware of the fund status of the General Supplemental fund and intend to approve its status by the end of FY2023.
- In response to Objection 3, the County indicated the Law Enforcement Center/Courthouse project was expected to be completed September 2020. COVID and other circumstances created delays and project issues, with construction costs coming in \$4.6 million higher than original estimates, with an estimated total cost of \$18,126,056. The Law Enforcement Center opened in January 2022 and the Courthouse portion have an expected completion date of September 2022. The County still believes that rejecting and rebidding the project would not have been favorable and the public will be provided with a completed Law Enforcement Center and a renovated courthouse compliant to current standards.
- The County stated the final rule for Coronavirus State & Local Fiscal Recovery Funds allowed for a loss up to \$10 million and both the Iowa State Association of Counties and their audit firm Gardiner & Company, PC. deemed Law Enforcement Center/Courthouse project costs were an appropriate use.
- In closing, the County feels they have been compliant with posting and publishing requirements, and their FY2023 budget secures a desired carryover balance, the intent to reduce future tax rates without sacrificing services, a completed Law Enforcement Center and courthouse project and an opportunity to use remaining Coronavirus State & Local Fiscal Recovery Funds as deemed appropriate. They state information is widely available to citizens who seek the data.

MEMBERS OF THE PUBLIC

Members of the public identified themselves and spoke during the public comment time. Comments included concerns over the use of Coronavirus State & Local Fiscal Recovery Funds for the Law Enforcement Center. As a frontline emergency worker, Ms. Brandy Moliter stated the funds are to be used for COVID recovery and to benefit citizens. Mr. Scott Andrews also spoke and expressed concern over provision of requested data and the status of the county's FY2021 audit and Annual Financial Report. Mr. Doug Lindeman spoke to issues related to the cost overruns of the Law Enforcement Center project and that future taxpayers are on the hook for recklessness.

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.

2. When referencing the Maximum Tax levy, Iowa Code section 331.433A 4. a. states "The board shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than ten nor more than twenty days prior to the hearing in the county newspapers selected under Chapter 349. If the county has an internet site, the notice shall also be posted and clearly identified on the county's internet site for public viewing beginning on the date of the newspaper publication. Additionally, if the county maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice."
3. Proof of publications provided by the Nora Springs/Rockford Register and Charles City Press indicate the County notice of Maximum Tax Levy was published February 16 and February 18 respectively. The Maximum Tax Levy hearing was held on February 28.
4. The Floyd County Auditor has a Facebook page at <https://www.facebook.com/FloydCountyAuditor>.

A post was made on February 18 on the Floyd County Auditor's Office Facebook page as follows:



Floyd County Auditor's Office
February 18 · 🌐

The Floyd County Board of Supervisors will hold a public hearing on Monday, February 28 regarding the FY23 proposed property tax levy. At the public hearing, any resident or taxpayer may present objections to, or arguments in favor of, the proposed tax levy.

NOTICE OF PUBLIC HEARING-PROPOSED PROPERTY TAX LEVY
Fiscal Year July 1, 2022 - June 30, 2023
County Name: FLOYD COUNTY County Number: 31

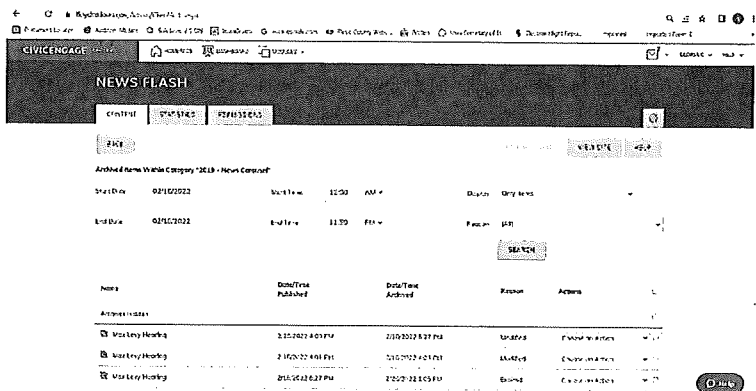
The County Board of Supervisors will conduct a public hearing on the proposed fiscal year County budget at 6:30pm
Meeting Date: 2/28/23 Meeting Time: 6:15 AM Meeting Location: Floyd County Courthouse/Board Room
Contact Person: Gloria Carr Contact Phone Number: (419) 237-4131

All who public hearing any resident or taxpayer may present objections to, or arguments in favor of, the proposed tax levy. After adoption of the proposed tax levy, the Board will publish notice and hold a hearing on the proposed county budget.
County Telephone Number: (419) 237-4131
County Website (if available): www.floydco.iowa.gov

	Current Year Certified Property Tax FY 2017/2018	Budget Year 2022 Property Tax FY 2022/2023	Budget Year Proposed Maximum Property Tax FY 2022/2023	Proposed Percentage Change
Taxable Value-Genl Services	1	997,080,433	972,717,938	972,717,933
Requested Tax Dollars-Genl Trade	2	3,029,246		3,029,246
Requested Tax Dollars-Genl Supplemental	3	1,315,116		2,339,687
Requested Tax Dollars-Genl Services Total	4	4,333,764	4,333,764	6,332,880
Estimated Tax Rate-Genl Services	5	4.33954	4.33951	4.31450
Taxable Value-Rural Services	6	631,373,621	627,768,413	627,768,413
Requested Tax Dollars-Rural	7	2,119,539		2,296,661
Requested Tax Dollars-Rural Supplemental	8			
Requested Tax Dollars-Rural Services Total	9	2,119,539	2,119,539	2,296,661
Estimated Tax Rate-Rural Services	10	3.35766	3.37634	3.45130

Explanation of increases in the budget:
Shift allowable equipment from Genl to Genl Supplemental, including Civil Deputy, Public Defender, Juvenile Probation, Insan care, Emergency Management training, and election expenses. Work law and increasing fuel allowances to 20% every dollar.
If applicable, this shows a net of 0 as a valid 0% change.
www.floydco.iowa.gov and Floyd County Auditor's Facebook page
The above tax rates do not include county voted levies, several health and education services levy, debt service levy and the rates of the local jurisdictions.
Regarding proposed maximum dollars, the Board of Supervisors cannot adopt a higher tax rate for these levies following the public hearing.
Budget year effective property tax rate is the rate that would be assessed for these levies if the dollars requested is not changed in the next year.

5. The Floyd County web site is found at www.floydco.iowa.gov. The notice for the Maximum Tax Levy is posted at <https://www.floydco.iowa.gov/DocumentCenter/View/2820/FY23-Max-Levy-Proposed>. In addition, in an email sent to Johnson on March 24, 2022, the Floyd County Auditor reported the Maximum Tax Levy notice was posted as part of a "News Flash" feature on the Floyd County homepage. The following screenshot was provided by the County Auditor to Johnson demonstrating posting dates:



6. Following the public hearing on the Maximum Levy the Board of Supervisors approve a resolution per Iowa Code 331.433A 5. a. "At the public hearing, the board shall receive oral or written objections from any resident or property owner of the county. After all objections have been received and considered, the board may decrease, but not increase, the proposed maximum property tax dollar amounts for inclusion in the resolution and shall adopt the resolution and file the resolution with the auditor as required under section 331.434, subsection 3."
7. Floyd County Board of Supervisors approved their Maximum Levy via Resolution 09-22 was approved unanimously on February 28, 2022 and included the following statement:

WHEREAS, a notice concerning the proposed county maximum property tax dollars was published as required in designated newspapers and posted on the Floyd County website and County Auditor's Facebook page, and

8. When referencing the county budget Iowa Code section 331.434(3) states "The board shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days prior to the hearing in the county newspapers selected under chapter 349."
9. The notice of public hearing on the full budget was published as required and a hearing was held on March 28, 2022. The budget was adopted by resolution on March 31, 2022. The adopted levies for General Services were \$5,761,691 and Rural Services were \$2,291,355.
10. Iowa Code section 331.434(4) states "At the hearing, a resident or taxpayer of the county may present to the board objections to or arguments in favor of any part of the budget." The Board of Supervisors unanimously approved the FY2023 budget after the hearing.
11. County budgets report expenditures in the following functions: Public Safety and Legal Services, Physical Health and Social Services, Mental Health, Intellectual Disability and Developmental Disabilities, County Environment and Education, Roads and Transportation, Governmental Services to Residents, Administration, Nonprogram Current, Debt Service and Capital Projects. The following table describes the increases by function and the County's description of these increases.

Function	FY2022	FY2023	Amount of Increase	Cause of Increase
Public Safety and Legal Services	\$ 3,661,238	\$ 3,826,654	\$ 165,416	Salaries, FICA, IPERS (\$132,995) health insurance (\$29,832) for adult corrections, sheriff administration, criminal prosecution

Physical Health and Social Services	\$ 1,480,500	\$ 1,598,047	\$ 117,547	New roof on DHS Building (\$50,000), increase in well closure and well testing grants (\$12,400), increase in home nursing (\$18,656) for physical therapy, increase in other (\$10,000) for ACFR funding, salaries for Services to Elderly increased (\$29,803 - 4.7%)
County Environment and Education	\$ 792,399	\$ 870,828	\$ 78,429	New tractor/mower (\$15,000), insurance increase due to change from part time to full time and rate increases (\$21,217), wage change from part time to full time and regular increases (total \$32,614)
Roads & Transcription	\$ 6,338,950	\$ 7,602,902	\$ 1,263,952	Two new motor graders (\$410,000), asphalt concrete project (\$807,000)
Government Services to Residents	\$ 752,542	\$ 754,860	\$ 2,318	General election costs, payroll increases
Administration	\$ 1,534,229	\$ 2,166,871	\$ 632,642	\$500,000 was ARPA Funds, utility costs greater with LEC expansion (\$27,000 - natural gas, \$26,000 electricity, \$2,000 sewer), tort liability, fidelity and other insurance (\$47,000), auditor wage increases due to two new staff in FY2022 with wages increasing in FY2023 (\$25,392)
Debt Service	\$ 1,698,745	\$ 1,699,175	\$ 430	
Capital Projects	\$ 3,638,743	\$ 1,625,000	\$ (2,013,743)	
Mental Health	\$ 471,780	\$ -	\$ (471,780)	
Total Budgeted Expenditures	\$ 20,369,126	\$ 20,144,337		

12. An order of the State Appeal Board on June 7, 2021 reduced the Floyd County's FY2022 budgeted General Services tax asking by \$1,142,035 to \$4,853,764 and the Rural Services tax asking by \$42,264 to \$2,119,559.

13. The following is a three-year trend of total tax asking across all funds, representing an average annual increase of approximately 3.33%:

	FY2021	FY2022	FY2023
Total Tax Asking	\$ 8,254,983	\$ 8,114,166	\$ 8,814,514

14. Floyd County levied the maximum General Basic Fund tax rate of \$3.50/\$1,000 of taxable valuation for FY2023. This rate is the same as FY2022, but generated \$64,133 less in revenue due to decreased taxable valuation.

The General Supplemental rate increased from \$1.70000/\$1,000 of taxable valuation in FY2022 to \$2.42329/\$1,000 of taxable valuation for FY2023, generating \$1,553,949 more revenue.

The Rural Basic levy rate increased from \$3.42400/\$1,000 of taxable valuation in FY2022 to \$3.65000/\$1,000 of taxable valuation for FY2023, generating \$176,504 more revenue.

The debt service rate in FY2022 was \$0.97599/\$1,000 of taxable valuation and then decreased to \$0.98000/\$1,000 of taxable valuation for FY2023, generating \$1,047,625.

15. The FY2023 total ending fund balance for the General Fund (General Basic, General Supplemental and General Other) and was budgeted at \$2,519,117, or approximately 26% of expenditures, with the Unassigned portion at approximately 19%. According to County Exhibit 7- "Fund Balance Policy", the county has a policy stating a fund balance goal with a General Fund ending fund balance of 25% and the Unassigned at less than 20% of total operating expenditures.
16. The increase in the General Supplemental tax asking is caused by the effort to increase General Supplemental Fund balance from (\$596,043) to \$493,036 and to cover budgeted expenditures. According to Iowa Code 331.424, among other uses, the General Supplemental can be levied for the following:

To the extent that the basic levies are insufficient to meet the county's needs for the following services, the board may certify supplemental levies as follows: 1. a. For general county services, an amount sufficient to pay the charges for the following: ...(3) Elections...(4) Employee benefits (5)...insurance that may be necessary in the operation of the county...(6) Maintenance and operation of the courts...(9) The maintenance and operation of a local emergency management agency...

17. According to the U.S. Department of Treasury document "Coronavirus State & Local Fiscal Recovery Funds-Overview of the Final Rule", revenue loss can be determined by either electing a "standard allowance" of \$10 million to spend on government services through the period of performance or calculating their actual revenue loss according to a formula.

The document "Coronavirus State & Local Fiscal Recovery Funds-Overview of the Final Rule", page 41, shows four areas for which funds cannot be spent. There was no mention of jails in this overview.

In summary the areas are:

1. Reduce net tax revenues (cut taxes with the use of these funds)
2. Deposits into Pension funds
3. Not to be used for debt service or replenishing financial reserves
4. Not used for settlement or judgments

18. The annual compensation of the County Auditor is determined in accordance with Chapter 331.907 of the Code of Iowa. This Chapter requires the County Compensation Board to prepare and submit to the County Board of Supervisors a compensation schedule for elective county officers. The Board of Supervisors are required to determine final compensation for the elected officials in an amount which does not exceed the compensation schedule recommended by the Compensation Board. Once the Board of Supervisors approves the salaries of county elected officials in accordance with Chapter 331. 907 of the Code of Iowa, the elected officials are not entitled to additional compensation.

19. Resolution 13-22-Amended adopted by the Floyd County Board of Supervisors on March 31, 2022 adopted elected officials' salaries as stated below:

Now therefore, be it resolved that the Floyd County Board of Supervisors has reduced the recommendation of the Compensation Board by 16 2/3% for the Attorney, Auditor, Recorder, Treasurer and Sheriff and now formally adopts the following salary for county elected officials for the fiscal year beginning July 1, 2022:

Elected Official	FY23 Salary
Attorney	\$114,005
Auditor	\$73,334 + \$1,000 stipend = \$74,334
Recorder	\$73,096
Treasurer	\$73,096
Sheriff	\$101,857
Supervisor	\$40,098

20. The FY2021 Audit of Decatur County, Iowa addressed a similar issue to what we see in Floyd County's FY23 budget. The Decatur County Board of Supervisors approved a one-time payment of \$2,500 to county elected officials that was not included in their compensation board recommendation. Although the additional pay for elected officials was approved by the Board of Supervisors, the compensation did not follow the procedures of Chapter 331. 907. As a result, the Decatur County audit found the additional pay to county elected officials is not permitted and is in violation of Iowa statute. The recommendation in the Decatur County audit was as follows: "Recommendation - The County should work with the County Attorney to seek reimbursement for the unallowable amounts paid to each elected official and should comply with Chapter 331. 907 of the Code of Iowa in the future."

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

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."

Due to concerns raised by petitioners prior to the completion of the budget process, Johnson contacted Floyd County regarding the posting of their Maximum Levy public hearing notice. Proof of newspaper notices were emailed to Johnson and the newspaper notices were given within the "not less than ten nor more than twenty days prior to the hearing" as required by Iowa Code section 331.433A 4. a. The statutory language requiring posting of notice on website/s and social media includes no requirement for proof of such electronic publication. Floyd County attested to proper notification via the resolution to approve the Maximum Levy. Based on Johnson's own viewing of the newspaper proof of publications and the notices on the county web site and Auditor's Facebook page, and information submitted by the County Auditor regarding their web site posting, Johnson determined they were substantially compliant with the statutory publishing and posting requirements. She communicated as such to the County Auditor on March 25, 2022.

The County has selected to use the ARPA funds received as lost revenue. Expenditures for the Law Enforcement Center/Courthouse would be an allowed use of those funds under the U.S. Department of Treasury document "Coronavirus State & Local Fiscal Recovery Funds – Overview of the Final Rule."

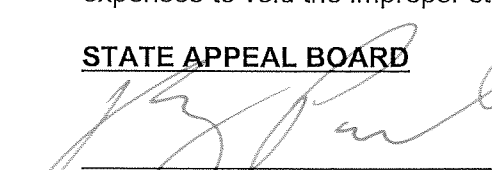
The petitioners did not meet the burden of proof requirement to justify a reduction in the FY2023 budget. The County met the burden of proof requirement for the increases in the FY2023 budget.

The Board of Supervisors approved a \$1,000 stipend to the County Auditor which was not approved in the salary increases submitted by the compensation board for FY2023. The Auditor of State found this type of action to be a violation of statute in the Decatur County FY2021 audit and therefore the same applies in this review of the FY2023 Floyd County budget.


ORDER

Based on the information provided by the parties involved and the Iowa Code, the State Appeal Board sustains the FY2023 budget as adopted, with the exception of a \$1,000 reduction to expenses to void the improper stipend provided the County Auditor.

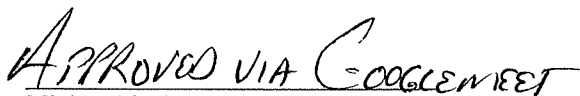
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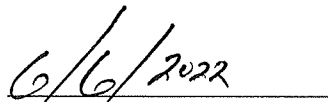
Kraig Paulsen
Chairperson



Rob Sand
Vice Chairperson



Michael L. Fitzgerald
Member



Date