

STATE APPEAL BOARD

In Re:	Black Hawk County Budget Appeal FY 1999-2000))))	Order May 18, 1999
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BEFORE STATE AUDITOR, RICHARD D. JOHNSON; STATE TREASURER, MICHAEL L. FITZGERALD; AND THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, CYNTHIA L. EISENHAUER:

The above captioned matter was heard on April 15, 1999 before a panel consisting of Ronald J. Amosson, Executive Secretary to the State Appeal Board and presiding officer; Stephen E. Larson, Executive Officer II, Office of the State Treasurer; and Donna F. Kruger, Senior Auditor II, Office of State Auditor.

The hearing was held pursuant to Section 331.436 and Chapter 24 of the Code of Iowa. Black Hawk County Auditor Grant Veeder represented the County and spokespersons for the petitioners were Eric Sage, Chairman of the County Action Committee of the Black Hawk County Farm Bureau Board of Directors, and Jim Lind, Former State Senator and Black Hawk County resident.

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, and after a public meeting to consider the matter, the State Appeal Board has voted to sustain in part and modify in part Black Hawk County's fiscal year 2000 budget as described herein.

PROCEDURAL HISTORY

The FY2000 Black Hawk County proposed budget summary was published on February 24, 1999 and February 25, 1999. A public hearing on the proposed budget was held on March 9, 1999 and the budget was adopted on the same day.

A petition protesting the certified FY2000 Black Hawk County budget was filed with the Black Hawk County Auditor on March 23, 1999 and was received by the State Appeal Board on March 29, 1999. On the petition document the petitioners stated two objections to the proposed budget. The first objection was to the utilization of the local option sales tax. The reasons given for this objection were that \$1 million in revenues are not being allocated in the unincorporated area of the county and the revenues are not being used 100% for property tax relief.

The second objection was to specific spending increases and excessive ending fund balances. The reasons outlined include a proposed budget that is 28% greater than the FY98 budget and 18% greater than the re-estimated FY99 budget, excessive increases in the salaries of elected officials, and a budgeted General Fund ending fund balance of \$7.5 million is more than is necessary for emergencies and cash flow.

DISCUSSION

Eric Sage made opening remarks on behalf of the petitioners. The petitioners asked the State Appeal Board to direct the County to take the following actions:

- 1) Deposit all local option sales tax revenues (LOST) in the rural services basic fund.
- 2) Reduce the salary increase for the members of the Board of Supervisors by \$500 each and reduce the general supplemental levy to reflect the reduction.
- 3) Reduce expenditures in Service Area 3 by \$553,000, and increase Service Area 1 expenditures by \$238,000 for a net reduction in countywide taxes of \$315,000.

The petitioners stated that the language of the ballot voted on in January 1995 requires that the local option sales tax be used for property tax relief in the unincorporated area of the County. They said the only way to accomplish the terms of the ballot is to deposit the money in the rural services basic fund. They cited the State Appeal Board's decision in the Dickinson County budget appeal for fiscal year 1999 in support of their position.

The petitioners argued that reducing the rural services basic fund levy to zero alone does not comply with the ballot. The ballot requires all local option sales tax revenue to be used for property tax relief even though cash reserves will build in the fund. Any such reserves can be used for property tax relief in subsequent years.

The petitioners also stated that by placing all of the local option sales tax revenue into the rural services basic fund, the fund balance would increase to \$1.1 million while the general fund balance would be reduced to slightly less than \$6.5 million. The reduced fund balance in the general fund would still amount to 21% of budgeted expenditures which exceeds the 15% reserve that the County Auditor has stated would be sufficient to meet the needs of the County.

The second concern of the petitioners was the proposed 7% salary increase for the Board of Supervisors. They argued that it is the County's burden to prove that the proposed salary increase of 7% is necessary, reasonable and in the interest of the public welfare. Besides comparing the salaries to other Counties

of similar size to the County, they believed two other additional factors should be considered: Counties with populations in decline and counties with part-time Boards of Supervisors. Considering these additional factors, they believe salary increases of 5% to be more appropriate.

Jim Lind spoke on behalf of the petitioners regarding their objection to the County's proposed contract with Black Hawk County's Health Department to provide inmate medical services at the county jail. The proposed contract is a result of a U.S. Department of Justice investigation of the conditions at the jail. The petitioners argued that the contract would increase expenditures in the Health Department by \$553,000.

The petitioners stated that the cost per inmate of the Black Hawk County proposal exceeds the costs at Polk County. They requested that the County put the contract out for bid.

The petitioners expressed concerns with the way the County is accounting for the revenues associated with the medical services contract. They stated that the reimbursements from counties housing their inmates in Black Hawk County are not being realistically reflected in the budget. They argued that if the costs are increasing for the proposed contract, then the rates the County charges other counties and the federal government should also increase to cover their share of the costs.

The petitioners also stated that the County's method of budgeting for the contract inflates the budget. The Health Department's budgeted expenditures increased \$553,000 for the contract and miscellaneous revenues increased \$553,000 for the reimbursement from the Sheriff's budget. The \$553,000 is also included in the Sheriff's budgeted expenditures.

The petitioners stated that miscellaneous revenues are under-estimated. With the additional \$553,000 in miscellaneous revenues for the Health Department contract, the total miscellaneous revenues decreased by \$569,000 to \$2.8 million. Without the Health Department contract, miscellaneous revenues would have decreased by \$1.1 million.

The petitioners asked the State Appeal Board to instruct the Board of Supervisors to suspend the general fund appropriation to the Health Department and reduce the general basic and general supplemental levies to reflect the reduction. They asked further that the increase in the Sheriff's office for the Health Department contract be suspended and reduce miscellaneous revenues. They stated that if a new contract is signed, the budget can be amended and money can be used from the ending fund balance. Even with the effect of the moving the local option sales tax revenue, the balance should be above the 15% level stated by the County Auditor.

The Black Hawk County Auditor, Grant Veeder, made the opening remarks of the County. The County stressed the following key points:

- 1) The County has acted lawfully in its use of local option sales tax revenue.
- 2) The County's property taxes for FY00 are less than they are for FY99.
- 3) The County has taken decisive steps to reduce fund balances.

Regarding the local option sales tax, the County stated that the first time the measure passed on July 23, 1991, nothing in the ballot referred to allocation of the revenues to the unincorporated area of the County. The January 24, 1995 ballot for the renewal of the local option sales tax did contain the language "to be allocated in the unincorporated area". However, the County stated that the perception at the time of the renewal was that the County would continue to use the tax as it had in the past. The County had used the wording from the administrative rules promulgated by the Secretary of State's Office for the language in the renewal ballot. The distinction between the two wordings was not apparent at that time.

The County referred to an audit comment from the FY98 audit that was recently completed by the State Auditor's Office. The comment stated that the local option sales tax proceeds should be credited to the Rural Services Fund or the Secondary Roads Fund. The comment went on to state that expenditures that primarily benefit the unincorporated areas of the County may be paid from the local option sales tax proceeds.

The County understood this to mean that if the County could identify General Fund expenditures that primarily benefit the unincorporated areas, and moved those expenditures along with the local option revenues from the General Fund to the Rural Services Fund, the State Auditor's Office would be satisfied that the County had complied with the ballot. The County identified such expenditures in FY98, primarily in the County Sheriff's Office, that exceeded the amount of local option sales tax deposited in the General Fund.

The County stated they have conducted the same analysis on the FY00 budget and identified nearly \$2.8 million in Sheriff's Office expenditures, net of revenues, as primarily benefiting the unincorporated area, and over \$450,000 more in Secondary Road expenses, all budgeted from the General Fund. If the County would have put the full \$2.2 million of local option sales tax revenue in the Rural Services Fund as well as at least \$2.2 million in the Sheriff's Office expenditures in the Rural Services Fund, the County would be in compliance with the directive of the State Auditor's Office.

However, instead of doing this, which would have resulted in no tax decrease for rural property owners, the Board of Supervisors voted to move enough local option sales tax revenue (\$889,342) to the Rural Services Fund to remove the

need to levy any property taxes in that fund. Combined with the \$290,000 already budgeted, this resulted in a total of \$1,179,342 in local option sales tax revenues allocated to the Rural Services Fund. The Board then voted to use \$400,000 in General Fund balance monies to offset part of the resultant tax increase in the General Fund.

The County went on to explain that if the County had allocated all of the local option sales tax revenue to the Rural Services Fund as the petitioners have asked, taxes would actually increase for both agricultural and urban property tax owners. This is because any further shift of local option sales tax revenues from the General Fund to the Rural Fund would need to be offset with an increase in the General Fund levy which is paid by agricultural property owners as well as urban property owners.

The County also responded to the petitioner's objection that local option sales tax revenues were not being used 100% for property tax relief. The County stated that these revenues are not dedicated to any program or project in the County budget and that no new program or project was initiated based upon the approval of the local option sales tax.

The County also addressed the petitioners' objection that expenditures for FY00 are 28% more than FY98 and 18% more than re-estimated FY99. The County stated that the primary increase is in debt service due to a crossover advance refunding of more than \$9.7 million with a call date in FY00. The actual effect of the advance refunding is to lower taxes with total net savings from the refunding of \$598,881 and a present value savings of \$255,796.

The County defended the proposed salary increases of the elected officials stating that the Board of Supervisors approved the 7% salary recommendations of the County Compensation Board and had acted within its authority as prescribed by Iowa law.

Regarding the FY00 budgeted General Fund ending fund balance, the County stated that the \$7.5 million balance includes reserved balances of over \$1.7 million. The unreserved fund balance equals about 17.8% of FY00 budgeted expenditures. The County stated that, in most cases, the County is safe in operating anywhere above a minimum of 15% balance.

The County stated that they have historically under-budgeted General Fund balances due to difficulty in predicting actual expenditures and revenues. However, they have recently taken steps to reverse this trend. For the FY00 budget, the County increased revenue estimates for various departments.

The County provided the following additional information to the State Appeal Board concerning the overall decrease in the budgeted miscellaneous revenues for FY00:

- The FY99 re-estimated miscellaneous revenues include \$1,100,000 of bond proceeds relating to a sewerage project for Washburn.
- Without this revenue, the FY99 re-estimated miscellaneous revenues would have totaled \$2,307,015 compared with \$2,838,276 for FY00. Therefore FY00 budgeted miscellaneous revenues would have actually increased \$531,261 from FY99.

Tom O'Rourke, Director of Black Hawk County Health Department addressed the petitioners concerns regarding the inmate medical services contract. He explained that the following led to the proposed contract:

- The Black Hawk County Board of Health provided inmate health services at the jail from 1983 through 1995.
- The Board of Health conducted research in 1995 to create a health plan for inmates in the newly constructed jail, but the Sheriff and Board of Supervisors rejected their proposed plan for cost considerations.
- On January 7, 1999 the Health Department was contacted by the Board of Supervisors and requested to participate in the solution to the U.S. Department of Justice findings of January 4, 1999.
- Several meetings were held over a period of approximately eight weeks and included representatives from the County Attorney's Office, the Board of Health, the Board of Supervisors, Emergency Practice Associates, and Black Hawk Grundy Mental Health.
- The meetings included review of the Board of Health's past research as well as limited inquires of other inmate operations in Iowa, including Polk County.
- The County was working under a very burdensome timeline of only 49 days and facing the threat of a possible lawsuit.

He went on to explain the costs of the Black Hawk County plan likely exceeded the costs in Polk County due to the larger number of inmates in Polk County. This large number created an economy of scale that does not exist in the 272-bed capacity of the Black Hawk County jail. Also, these economies of scale allowed for the use of Licensed Practical Nurses in conjunction with Registered Nurses at the Polk County facility. He also stated that the first year costs are higher due to the increased scrutiny of the Justice Department and because this effort is new and somewhat unfamiliar to involved staff, but that it is reasonable to assume that economies can be found as experience is gained.

FINDINGS OF FACT

1. Section 24.28 of the Iowa Code 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 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 levying board, as the case may be, 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." The requested property tax levy for the general fund increased \$799,704 for Fiscal Year 2000 over the tax levied in Fiscal Year 1999. Accordingly, the County must show that the increase is necessary, reasonable, and in the interest of the public welfare.

2. On January 24, 1995, a local option sales tax for the unincorporated area of Black Hawk County was passed. The ballot read, in part, as follows:

"Revenues from the sales and service tax are to be allocated in the unincorporated area of the County of Black Hawk as follows:

One hundred percent (100%) for property tax relief."

3. Black Hawk County received a letter from the U.S. Department of Justice dated January 4, 1999, detailing findings of their investigation of conditions of confinement at the County Jail. The letter concluded that conditions at the Jail violate the inmates' federal constitutional rights with respect to medical and mental health care, suicide prevention, inmate supervision and protection from harm, and improper use of the restraint chair. The letter stated that the Attorney General could initiate a lawsuit to correct deficiencies at the Jail 49 days after the County had been informed of the findings of the investigation.
4. Section 331.907(2) of the Iowa Code states in part, "In determining the final compensation schedule if the board of supervisors wishes to reduce the amount of the recommended salary schedule, the amount of salary increase proposed for each elected county officer shall be reduced an equal percentage".
5. Section 331.421 of the Iowa Code states that rural county services are "the services which are primarily intended to benefit those persons residing in the county outside of incorporated city areas..."

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.

ORDER

Based on the financial position of the County, information provided by the parties involved, the wording of the LOST ballot, and review of the historical data of Black Hawk County, the State Appeal Board orders the following action:

General Fund:

Sustain the General Fund property tax levy.

The County adequately documented the increase in expenditures for the fiscal year 2000 relating to the inmate medical services contract is necessary, reasonable and in the interest of the public welfare due to the circumstances relating to threatened litigation by the U.S. Department of Justice. However, the County may want to investigate if more cost-effective options are available for future years.

The salaries of the Board of Supervisors were adopted in accordance with statutory provisions. Since the Iowa Code provides a method for counties to determine salaries at the local level, the State Appeal Board has historically not adjusted salaries of local officials or employees if the statutory procedures for determining them have been followed. Also, to reduce the salaries of just the Board of Supervisors would violate Section 331.907 of the Iowa Code.

LOST revenues should be removed from the General Fund.

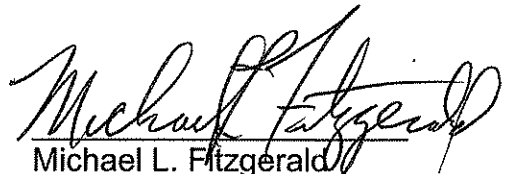
Rural Basic Fund:

LOST revenues are to be deposited in the Rural Services Fund in compliance with the ballot. The County may expend the LOST revenues on expenditures which meet the statutory criteria for the Rural Services Fund, even though previously budgeted in the General Fund.

STATE APPEAL BOARD



Richard D. Johnson
Chairperson



Michael L. Fitzgerald
Vice Chairperson



Cynthia P. Eisenhauer
Member

May 18, 1999

Date

**Black Hawk County
Fiscal 2000 Budget Protest
General Fund Analysis**

Property Taxes Levied:

Fiscal Year	Taxes Levied	Dollar Change Prior Year	Percent Change Prior Year	Percent Change from 1995	Net Current Property Taxes
1995	\$ 21,065,539				\$ 19,467,596
1996	21,787,361	721,822	3.427%	3.427%	18,218,026
1997	12,517,396	(9,269,965)	-42.547%	-40.579%	(1) 11,575,335
1998	12,825,017	307,621	2.458%	-39.118%	11,913,957
1999	12,508,952	(316,065)	-2.464%	-40.619%	11,615,280
2000	13,308,656	799,704	6.393%	-36.823%	12,512,235

(1) Beginning in FY97, mental health is budgeted in the MH-DD Services Fund.

Other County Tax (includes LOST)

Fiscal Year	Budget	Actual/Estimated	Percent Difference	Source of Actual Amounts
1995	1,754,000	1,803,046	2.796%	County
1996	1,724,100	1,799,402	4.368%	County
1997	1,755,911	2,321,042	32.184%	County
1998	1,755,462	2,166,799	23.432%	County
1999	1,974,100	2,285,021	15.750%	County (1)
2000	1,077,058	1,246,695	15.750%	County (1)
2000-Alt.	56,400	65,283	15.750%	County (1) (2)

(1) Estimated at 15.750% above budget (average difference 1995 through 1998)

(2) Reduced by \$1,020,658 for LOST moved to Rural Basic Fund

Other Revenues

Fiscal Year	Budget	Actual/Estimated	Percent Difference	Source of Actual Amounts	Transfers In
1995	\$ 17,167,522	19,293,671	12.385%	County	\$ 313,868
1996	21,989,963	24,481,588	11.331%	County	446,458
1997	12,251,394	14,312,444	16.823%	County	-
1998	13,763,616	16,421,547	19.311%	County	-
1999	14,580,058	18,094,062	24.101%	County re-estimate (2)	-
2000	17,218,776	19,685,538	14.326%	Estimated (1)	-

(1) Estimated at 14.326% higher than budget (average difference 1995 through 1998)

(2) County re-estimate from FY99 budget amendment rather than 5yr spreadsheet

**Black Hawk County
Fiscal 2000 Budget Protest
General Fund Analysis**

Expenditures					
Fiscal Year	Budget	Actual/ Estimated	Percent Difference	Source of Actual Amounts	Transfers Out
1995	\$ 39,655,300	41,801,732	5.413%	County	\$ 1,058,738
1996	43,943,627	45,187,763	2.831%	County	873,738
1997	24,513,860	25,108,307	2.425%	County	2,119,817
1998	26,297,715	29,553,900	12.382%	County	2,664,470
1999	27,373,578	30,505,708	11.442%	County re-estimate (2)	1,730,590
2000	30,585,168	32,232,791	5.387%	Estimated (1)	1,568,888

(1) Estimated at 5.387% higher than budget (average of 1995 through 1998)

(2) County re-estimate from FY99 budget amendment rather than 5yr spreadsheet

Change in reserves		
Fiscal Year	Actual	
1995	14,579	
1996	3,304,898	
1997	(49,073)	
1998	1,200,000	
1999	(1,100,000)	County re-estimate (2)
2000	-	

Ending Fund Balances					
Fiscal Year Ended June 30,	Budget	Actual/ Estimated	Difference	% Budgeted Balance to Disbursements	% Actual Balance to Disbursements
1995	\$ 6,239,247	6,908,083	(668,836)	15.734%	16.526%
1996	5,329,216	9,096,954	(3,767,738)	12.127%	20.131%
1997	4,394,480	10,028,578	(5,634,098)	17.927%	39.941%
1998	6,830,818	9,512,511	(2,681,693)	25.975%	32.187%
1999	9,325,473	8,170,576	1,154,897	34.067%	26.784%
2000	7,472,844	7,813,364	(340,520)	24.433%	24.240%
2000 - 1 Alt	7,472,844	6,631,953	840,891	24.433%	(1) 20.575%
	Decrease	1,181,412			

(1) Expenditures and ending fund balances subject to change should the County choose to move LOST expenditures

**Black Hawk County
Fiscal 2000 Budget Protest
Rural Services Fund Analysis**

Property Taxes Levied:

Fiscal Year	Taxes Levied	Dollar Change Prior Year	Percent Change Prior Year	Percent Change from 1995	Net Current Property Taxes
1995	\$ 973,240				\$ 895,714
1996	1,019,086	45,846	4.711%	4.711%	940,447
1997	1,019,084	(2)	0.000%	4.710%	931,332
1998	1,031,907	12,823	1.258%	6.028%	954,946
1999	877,460	(154,447)	-14.967%	-9.841%	797,826
2000	-	(877,460)	-100.000%	-100.000%	-

Other County Tax (includes LOST)

Fiscal Year	Budget	Actual/Estimated	Percent Difference	Source of Actual Amounts
1995	2,150	2,306	7.256%	County
1996	2,150	1,441	-32.977%	County
1997	2,150	1,041	-51.581%	County
1998	1,400	869	-37.929%	County
1999	291,100	336,948	15.750%	Estimate (1)
2000	1,173,342	1,358,143	15.750%	Estimate (1)
2000 - Alt.	2,194,000	2,539,555	15.750%	Estimate (1) (2)

(1) Estimated at 15.750% above budget (average difference 1995 through 1998 for Gen Fund)

(2) Increased by \$1,020,658 for LOST moved from General Fund

Other Revenues

Fiscal Year	Budget	Actual/Estimated	Percent Difference	Source of Actual Amounts	Transfers In
1995	\$ 105,190	115,519	9.819%	County	\$ -
1996	117,345	105,613	-9.998%	County	-
1997	98,021	117,867	20.247%	County	-
1998	115,463	123,768	7.193%	County	-
1999	132,001	140,099	6.135%	Estimated (1)	-
2000	53,925	57,233	6.135%	Estimated (1)	-

(1) Estimated at 6.135% higher than budget (average difference of 1995 through 1998)

**Black Hawk County
Fiscal 2000 Budget Protest
Rural Services Fund Analysis**

Expenditures						
Fiscal Year	Budget	Actual/ Estimated	Percent Difference	Source of Actual Amounts	Transfers Out	
1995	\$ 201,729	189,023	-6.299%	County	\$ 871,897	
1996	198,884	202,378	1.757%	County	928,266	
1997	205,230	212,130	3.362%	County	853,266	
1998	183,255	190,354	3.874%	County	894,488	
1999	187,705	188,844	0.607%	Estimated (1)	1,033,222	
2000	189,410	190,560	0.607%	Estimated (1)	1,045,104	

(1) Estimated at .607% higher than budget (average difference of 1995 through 1998)

Fund Balances						
Fiscal Year Ended June 30,	Budget	Actual/ Estimated	Difference	% Budgeted Balance to Disbursements	% Actual Balance to Disbursements	
1995	\$ 155,862	232,472	(76,610)	15.646%	21.912%	
1996	136,763	149,329	(12,566)	13.456%	13.207%	
1997	158,929	134,173	24,756	12.916%	12.594%	
1998	120,503	128,914	(8,411)	9.821%	11.883%	
1999	127,922	181,721	(53,799)	8.649%	14.870%	
2000	127,667	361,434	(233,767)	8.272%	29.250%	
2000 - Alt.	127,667	1,542,846	(1,415,179)	10.341%	(1) 124.860%	
	Increase	(1,181,412)				

(1) Expenditures and ending fund balances subject to change should the County choose to move LOST expenditures.