County Budget Protests

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As you may have read in the late spring and early summer issues of this magazine, four counties successfully defeated protests of their FY 2004 budgets. This was my first experience with the budget appeal process and I got to wondering just exactly how it works. I also wondered how often and for what reasons county budgets get protested and what kind of success rate counties have had when dealing with the State Appeal Board. With help from the Department of Management (DOM), I found a few answers to these and other questions. All of my findings, which includes a summary of budget protests from 1996 thru 2004, is available on ISAC's website (www.iowacounties.org).

Procedure

Title I of the Iowa Code is entitled, "State Sovereignty and Management." Subtitle IX, entitled "Restraints on Government," contains Iowa Code chapter 24, which allows for protests of local government budgets. The chapter creates the State Appeal Board, which consists of the State Auditor, State Treasurer, and Director of the Department of Management. The chapter also requires any protest to a local government budget to be filed with the county auditor within 10 days of the budget certification deadline. It allows for a panel to conduct the budget hearing and also sets the burdens of proof. Specifically, the chapter states that "[a]t 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." This is an important distinction because it means that while the county must justify any new expenditures, the protestors must prove that any existing expenditures are unnecessary, unreasonable, and not in the interest of public welfare.

The latter part of Iowa Code chapter 24 gives the Appeal Board the power to reduce, approve, or disapprove any protested budget or protested budget item, but specifically prohibits the Board from increasing any tax levy or expenditure. The Code requires all Appeal Board decisions to be rendered by April 30, but enforcement of that provision has not always been strict. Finally, the chapter gives local governments the right to petition to the State Appeal Board to exceed their statutory levy limits in the case of an unusual need. This provision was most commonly used by counties during the years of the property tax limitation.

Iowa Code chapter 331, county home rule, refers the reader back to Iowa Code chapter 24 for budget protest procedures, with one exception. In the 2003 legislative session, SF 453 amended Iowa Code §331.436 so that the number of signatures necessary to file a budget protest must be at least 100. Previously, there was no minimum requirement; the Code simply required 0.25% of "those voting for the office of governor in the last general election" to sign a petition for the protest to be valid. That percentage requirement is still in place, but it is now supplemented by the minimum signature requirement.

Budget Protests FY 1996 - FY 2004

I managed to dig up all of the state appeals board decisions on local budget protests since FY 1996. While there are certainly a number of appeals of school district and city budgets included in the file cabinet at DOM, county budgets seem to be protested most often. (I would be remiss here if I passed up a chance to say that shouldn't be the case, as counties only levy about 21% of all property taxes. Cities are responsible for 28%, and school districts levy over 44% of all property taxes. But I digress.) Over the past nine fiscal years (including FY 2004), county budgets, or those of affiliated organizations such as the conference board or board of health, have been protested 35 times. Four of those protests have not resulted in a decision by the State Appeal Board, either because the protest was invalid or withdrawn, or because the county budget was invalid. Sixteen of those contested budgets have been sustained in their entirety, which means that the counties - for lack of a better word - won.

This is not to say that counties 'lost' the other 15 budget appeals. Sometimes the two conflicting parties came to an agreement, and a decision by the Appeal Board was unnecessary. Other times the Appeal Board 'modified' a county's budget, not necessarily reduced it. Still other times, the Board did reduce the budget to comply with the petitioners' request in full. However, only twice in the past three years has the Appeal Board reduced a county budget because of a protest.

Over the years, the most common protestors of county budgets have been the local Farm Bureaus. Some of the more common protested issues include the use of local option sales tax revenues, paying uniform patrol expenditures out of the rural fund, salary increases and "excessive fund balances."

Visit ISAC's website (www.iowacounties.org) under 'Legislative Information' for a full summary of budget protests from FY 1996 thru FY 2004.