

STATE APPEAL BOARD

In Re:	Keokuk, Iowa	)	Order
	Budget Appeal	)	
		)	
	FY 2004-2005	)	May 18, 2004

BEFORE STATE AUDITOR, DAVID A. VAUDT; 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 Chapters 24 and 384 of the Code of Iowa on April 13, 2004. The hearing was before a panel consisting of Stephen Larson, Deputy Treasurer and presiding hearing officer; Office of the State Treasurer; Stephen Ford, City Budget Director, Department of Management; and Kevin J. Borchert, Professional Development Director, Office of the State Auditor.

The spokesperson for the petitioners was Brent Fellows. David A. Gudgel, Mayor of Keokuk, and others from the City Council represented the City.

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 subsequent to the hearing and after a public meeting to consider the matter, the State Appeal Board has voted to modify in part the City of Keokuk's fiscal year (FY) 2005 budget as described herein.

PROCEDURAL HISTORY

The FY2005 City of Keokuk, Iowa proposed budget summary was published in the Daily Gate City on February 20, 2004. The required public hearing was held and the budget was adopted on March 4, 2004.

A petition protesting the certified FY2005 City of Keokuk, Iowa budget was filed with the Lee County Auditor on March 22, 2004, and was received by the State Appeal Board on March 24, 2004.

On the petition document, the petitioners stated in part "We seek necessary corrections of the 2004-2005 budget as certified to reflect the correct use of the \$155,000 property tax relief monies being applied to the tax levy areas being increased over the 2003-2004 budget and the removal of the \$155,000 from the General Fund use where it has never been before applied since the 1991 referendum."

DISCUSSION

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

PETITIONERS

At the budget appeal public hearing, petitioner Brent Fellows represented the petitioners. He provided written remarks with various exhibits.

In his remarks, Mr. Fellows discussed his background, involvement, and his participation during the budgetary process of the City of Keokuk. He started by providing a definition of property tax relief and continued by outlining the issue of whether or not the City of Keokuk can transfer \$155,000 from the Property Tax Relief Fund to the General Fund.

He spoke about the history, ballot language, statutory code provisions, and the content of the petitioners' exhibits as presented. Since his involvement on the City Council, the City had always applied the property tax relief money to the debt service levy in an attempt to prevent the debt service levy from rising.

The petitioners have concluded the transfer of the money into the General Fund will not reduce the \$8.10 levy, while levies have continued to increase for debt service, insurance, and employee benefits.

He concluded his opening remarks by commenting on the need to allocate the property tax relief and readjust the operations within the community to cut down on overall operating expenses. He asked the State Appeal Board to intervene in this matter to ensure the spirit of the law is followed. The citizens expect the funds to be used for property tax relief and not to subsidize the General Fund. Allowing this transfer would only set a precedent, which will allow for a greater amount to be transferred every year until all of the local option sales tax receipts are transferred into the General Fund.

Mr. Fellows ended his presentation with a rebuttal and closing remarks by requesting the State Appeal Board not allow this transfer because it would set a precedent.

CITY OF KEOKUK RESPONSE

Mayor David Gudgel, City Council person Mal Mullin and City Clerk Donna Eilers were the primary spokespersons for the City of Keokuk. They presented written materials with various exhibits to support the City's position, and a summary is as follows:

Mayor Gudgel began by saying his comments would follow the prepared statement for the hearing. However, the City welcomes a decision on this issue by the State Appeal Board and direction on how the City should use this money. The City conducts due diligence on issues such as this and, as a part of that process, the City Clerk of Keokuk has communicated with the Department of Management in the past on this issue. No information has been provided to the City indicating this transfer would be improper.

He continued by commenting the City considered borrowing money or bonding for new police and fire equipment to help reduce a projected budget deficit in the General Fund. The City argued that by not "borrowing money" the City has met the requirements of the local option sales tax ballot in regards to the use of the taxes for property tax relief.

In closing the City's opening remarks, the Mayor commented that using a portion of the property tax relief monies to satisfy the General Fund obligations ultimately helps reduce the present and future tax burden of the citizens.

The spokespersons for the City responded to the petitioners' rebuttal and closing comments by commenting further on information provided in the written materials. Additionally, the City welcomes the direction the State Appeal Board will provide on this matter. City actions concerning the local option sales tax proceeds will ultimately help reduce the present and future tax burdens of our citizens and the City will not do anything that will not meet the standards set by the State. The City requests the State Appeal Board deny the petitioners' request and uphold the budget for fiscal year 2005.

FINDINGS OF FACT

1. The City of Keokuk, subject to various state laws and administrative rules, shall propose expenditures, prepare and adopt a budget and certify taxes. The City met those requirements.
2. Section 24.27 of the Iowa Code provides persons who are affected by any proposed budget, expenditure, or tax levy, or by any item thereof, may appeal. The petitioners met the requirements and, pursuant to Sections 24.28 and 24.29, a hearing was scheduled and conducted.
3. Section 24.28 of the Iowa Code states "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 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. "

4. Section 24.30 of the Iowa Code states in part "It shall be the duty of the state board to review and finally pass upon all proposed budget expenditures, tax levies and tax assessments from which appeal is taken and it shall have power and authority to approve, disapprove, or reduce all such proposed budgets, expenditures, and tax levies so submitted..."
5. The voters approved the local option sales tax in 1991 and it became effective on October 1, 1991. The ballot states in part "revenues from the sales tax are to be allocated in the City of Keokuk as follows: Fifty percent of the proceeds shall be used for property tax relief. The specific purposes for which the revenues shall otherwise be expended are forty percent for infrastructure and ten percent for human development services."
6. The City's certified FY2005 budget includes estimated local option sales tax receipts of \$1,043,844. The State budget form did not specify the amount "the city calculates to be attributable to property tax relief".
7. Section 422B.10 of the Iowa Code outlines the method for determining the amount of local option sales tax receipts to be allocated to cities and counties. Section 422B.10(6) allows the city to spend the moneys received for any lawful purpose.
8. Within the boundaries of the voter approved ballot language, the City of Keokuk has the authority to determine how the local option sales tax receipts will be used.
9. The City's proposed budget for FY2005 included local option sales tax receipts representing the amount to be used for property tax relief. Those revenues are budgeted as follows: \$450,000 to the Debt Service Fund and \$155,000 to the General Fund.
10. Section 384.24 of the Iowa Code defines "essential corporate purpose" and "general corporate purpose" and details those items the City could issue general obligation bonds to pay for.
11. Section 384.24A of the Iowa Code establishes the process for loan agreements as "A city may enter into loan agreements to borrow money for any public purpose in accordance with the following terms and procedures: 384.24A (3) "The governing body shall follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a loan agreement made payable from the debt service fund".
12. Section 384.25 of the Iowa Code establishes the process the City must follow to authorize general obligation bonds for essential purposes. This process requires, in part, the council to publish a notice of the proposed action, including

a statement of the amount and purpose of the bonds, and the time and place of the meeting at which the council proposes to take action for the issuance of the bonds, in accordance with Section 362.3 of the Iowa Code.

13. Section 384.26 of the Iowa Code establishes the process the City must follow to authorize general obligation bonds for general purposes. In accordance with this section, a council may, in lieu of calling an election, institute proceedings for the issuance of bonds by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the City at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds. Bonds issued in accordance with this Code Section are limited to an amount of not more than seven hundred thousand dollars for cities having a population of more than five thousand and not more than seventy-five thousand.

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 384.19.

BASIS OF DECISIONS

The City's budget, budget hearings, and property tax levies were adopted by the City Council in accordance with statutory provisions.

The ballot authorizing the local option sales tax provided that 50% of the receipts were to be allocated for property tax relief. The budgeted property tax levied in the General Fund plus the local option sales tax identified as for property tax relief in the General Fund exceeds the maximum the City could raise solely by property taxes authorized by Sections 384.1, 384.8 and 384.12 of the Iowa Code.

The City has statutory authority, in accordance with Sections 384.24 through 384.26, to authorize debt payable from the debt service levy. Payments for purposes authorized in these Sections that can be made from local option sales tax, rather than from collection of a debt service property tax levy, provides property tax relief.

ORDER

Based on the financial position of the City, information provided by the parties involved, the wording on the Local Option Sales Tax ballot, and a review of historical data of the City of Keokuk, the State Appeal Board orders the following:

Transfers:

The transfer to the General Fund of local option sales tax from the portion required for property tax relief is disallowed.

Disbursements from Local Option Sales Tax Fund:

The City has the authority to disburse directly from the Local Option Sales Tax Fund for items that meet the definitions of essential or general corporate purposes as defined in Section 384. However, the City needs to comply with the requirements of Sections 384.24A, 384.25 or 384.26 in regards to publishing proper notices, including a statement of the amount and purpose of the debt and the time and place where the public will be provided an opportunity to provide oral and written objections to the proposed actions of the council, before authorizing any disbursements from this fund.

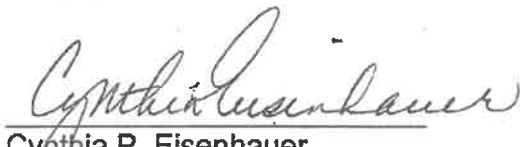
STATE APPEAL BOARD



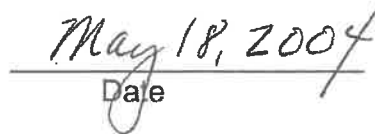
Michael L. Fitzgerald
Chairperson



David A. Vaudt
Vice Chairperson



Cynthia P. Eisenhower
Member



Date