Regulatory Analysis

Notice of Intended Action to be published: 543—Chapter 4
"Budget Appeals"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 25, 24.26, 24.30, 24.31 and 24.32

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 25 and sections 24.26, 24.30, 24.31 and 24.32

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 19, 2024 10 a.m.	State Capitol, Room G14 1007 East Grand Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Management no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Brad Horn, General Counsel
Iowa Department of Management
State Capitol, Room G13
1007 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.414.6187
Email: brad.horn@dom.iowa.gov

Purpose and Summary

The State Appeal Board is proposing to repromulgate the rules in existing Chapter 5 as a new Chapter 4. Chapter 5 is proposed to be rescinded in another Regulatory Analysis in the 10/30/24 Iowa Administrative Bulletin, and the new Chapter 4 is proposed to be adopted herein. The statements in the existing Chapter 5 were evaluated to ensure the rules were minimally necessary to convey to the public information on how to submit a budget appeal to the Board and information applicable to the Board's action on that claim. The rules were updated to apply new definitions, remove restrictive words and phrases, and remove any antiquated concepts. Rules that were in Chapter 5 that were not directly related to budget appeals were relocated to ensure the focus of the proposed Chapter 4 remained on budget appeals and not ancillary matters.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Only individuals who submit claims bear costs associated with the rules. The rules provide minimally necessary guidance for those seeking to interact with the Board.

- **Classes of persons that will benefit from the proposed rulemaking:**

The proposed rulemaking simplifies the existing rules slightly, which benefits the public by removing burdens and easing access to the Board.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The rulemaking would not have a quantitative impact on citizens or any other entity.

- **Qualitative description of impact:**

The proposed rulemaking simplifies the existing rules and removes all restrictive words and phrases from the rules, which should provide those who access the rules a better qualitative experience when interacting with the Board.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The proposed rulemaking removes any unnecessary statements in the rules and simplifies the text where possible. There are no additional implementation or enforcement costs borne by any agency because of the updates to the rules.

- **Anticipated effect on state revenues:**

State revenues, as well as implementation and enforcement costs, do not change based on this cleanup of the Board's rules. It is not anticipated that there will need to be any system changes or other changes in policy of any kind.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Inaction is not permissible because the rules must be addressed pursuant to Executive Order 10. The benefits of the rulemaking should be that taxpayers accessing the Board should have an easier time because the rules will be easier to follow.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

All rules were evaluated with the goal of reduction, elimination and simplification of the existing rules. No less intrusive methods have been identified along the way. No less costly alternatives were identified in the process.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

There are no alternative methods. The Board must comply with Executive Order 10. The rules are minimally necessary to provide citizens the information they need to communicate with the Board.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

There are no alternative methods. The Board must comply with Executive Order 10.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rulemaking does not have any substantial impact on small business. If anything, the rules will have a benefit to small business in the sense that the new rules will make it easier for small businesses to make claims against the State through the Board.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 543—Chapter 4:

CHAPTER 4
BUDGET APPEALS

543—4.1(24) Budget appeals. In resolving appeals filed under Iowa Code chapter 24, the board possesses broad discretionary power to determine how objections are presented and the conduct of hearings and appeals. All proceedings will be simple and informal unless applicable law dictates formality.

543—4.2(24) Inquiries. Inquiries as to procedures may be directed to any board member at the members' respective telephone numbers or the executive secretary or board members at the board's address.

543—4.3(24) Filings.

4.3(1) The number of signatures needed for a budget appeal under Iowa Code chapter 24 is based on voting records. Voting record information is obtained from the county auditor (election commissioner). Verification of the signatures will be made by the board.

4.3(2) For a budget or amendment appeal for all local governments other than a city, the appeal has to be signed by a number of persons in the municipality (local government) equal to one-fourth of 1 percent of those voting for the office of president of the United States or governor, as the case may be, at the last general election in said municipality, but the number will not be less than 10, and the number need not be more than 100 persons.

4.3(3) For a city budget or amendment appeal, the protest has to be signed by qualified electors equal in number to one-fourth of 1 percent of the votes cast for governor in the last preceding general election in the city, but the number will not be less than 10 and the number need not be more than 100 persons.

4.3(4) Filings of appeal petitions are to be with the county auditor of the county in which the local government is located or, if more than one county is involved, in that county where the principal administrative offices are located.

4.3(5) It is the responsibility of the county auditor to notify the board and the appropriate local government upon receipt of an appeal petition. Such filing by the county auditor is to consist of a copy of the appeal petition, together with a complete copy of the certified budget under appeal. Filing with the board is through its executive secretary.

4.3(6) Any appeal and supporting documents will be legible. Copies of relevant documents are acceptable.

4.3(7) Signatures will be accompanied by legible and full mailing addresses.

4.3(8) Petitioners need not have appeared and entered objection at the public hearing at which the protested budget was considered.

4.3(9) The board will extend statutory deadlines by the same elapsed time constraints when tardy certification occurs or whenever a different certification date is established by a special charter city.

4.3(10) If more than one appeal with reasonably related issues is filed against the same budget, the board may consolidate or concurrently consider the appeals in a single hearing and may issue a consolidated decision.

4.3(11) Appeals may be submitted in any form. The content of the appeal should include:

a. Name of the local government budget being appealed.

b. Statutory authority under which the appeal is taken (Iowa Code chapter 384 for cities and Iowa Code chapter 24 for all other local governments).

c. Decision being protested, summarizing key objections and basic reasons for such objections.

This general statement may be expanded at the formal hearing with oral testimony, written briefs, exhibits or other substantive documentation.

4.3(12) Illustration of appeal format.

To: State Appeal Board
Iowa State Capitol
Des Moines, IA 50319

We, the undersigned, protest the action of the officials of ____(local government)____ in certification of their 20____–____ budget and request an appeal hearing.

We offer the following objections and reasons in summary form as basis for our appeal under Iowa Code chapter ____ :

Objection 1 (cite)
Reasons: (brief explanation)
Objection 2 (cite)
Reasons: (brief explanation)
(Add such other sections as needed to identify each basic objection and supporting reasons.)

Date	Signatures	Full mailing address with Zip code.
1.	(Additional signature sheets may be attached without the full heading, it being assumed those subscribing their names are fully aware of the stated appeal, objections and reasons. Minimal headings on attached sheets should indicate "Protest to _____(local government)_____ Budget, 20 ____–____.")	
2.		
3.		
10.		
100.		

4.3(13) The burden is upon objectors for any proposed item that was included in the budget of the previous year with proposal for reduction or exclusion of the specific items. These arguments need not be fully developed in the appeal petition.

4.3(14) The burden is on the local government certifying or levying officials (as opposed to staff) to show any new item in the budget, or any increase in any item thereof, is necessary, reasonable and in the interest of the public welfare.

543—4.4(24) Scheduling and notice of hearings.

4.4(1) Dates for hearings will be set by the board. When a date is set, notice will be given by certified mail, return receipt requested, to the first ten names on the petition and to the appropriate officials of the local government.

4.4(2) This notice will be mailed at least five days prior to the hearing.

543—4.5(24) Hearings.

4.5(1) Hearings will be held at scheduled times within the county where the local government is located or headquartered. All parties assume their own expenses except as may otherwise be specifically provided by rule or law.

4.5(2) The board may conduct the hearing or may appoint a deputy (hearing officer) to conduct the hearing and report findings and recommendations to the board for its decision.

4.5(3) The hearing will be held in a public place and will be open to the public. The hearing will be conducted so as to give all parties a fair opportunity to be heard.

4.5(4) The board's executive secretary will prepare an official record of all proceedings, including testimony and exhibits. Testimony taken by a mechanical recording device may be

incorporated by reference if a transcript is not made. A reasonable amount will be charged to cover the cost of providing a duplicate tape or a copy of the transcription for either party. Tapes will be retained for five years following the decision.

4.5(5) If a party entitled to a hearing fails to appear, that party will be deemed to have waived opportunity for the hearing or to participate in the hearing unless there is good cause for such failure.

4.5(6) Legal counsel will be at the discretion and expense of either party to the appeal.

4.5(7) Parties appearing before the board should select one or two persons to serve as primary spokespersons for their position.

4.5(8) The board will exclude evidence that is irrelevant, immaterial or unduly repetitious.

4.5(9) Written or printed materials will be in sufficient quantity to supply at least three copies for the board and one copy for the other party to the appeal.

4.5(10) Any party requesting a certified shorthand or court reporter will make arrangements for such attendance and expense.

4.5(11) At the outset of each hearing, the presiding board officer will indicate disposition of rulings on procedural questions and outline ground rules and time limitations to seek to give equal opportunity to both parties and basically permit:

a. Objectors' basic arguments.

b. Local government officials' basic arguments and rebuttal.

c. Rebuttal by objectors.

d. Presentation by authorized third party intervenors.

e. If desired, closing remarks by objectors.

f. If desired, closing remarks by local government officials.

g. Time permitting, comments by interested citizens.

h. Announcement as to adjournment, filing of additional briefs and the probable timing for the decision.

4.5(12) As deemed necessary, the board may examine the entire budget under appeal including cash reserves (balances), funding sources and expenditures of all types including actual or allowable transfers so those specific items under appeal may be fully examined and evaluated in perspective in arriving at a decision on the appeal.

4.5(13) The board will listen to testimony and arguments from all those concerned, take the matters under advisement, and make a decision setting out the findings of fact and conclusions of law on which the decision is based.

4.5(14) Board members or the presiding hearing officer will be free to ask questions of anyone at any point during any hearing.

4.5(15) The parties may agree upon pertinent facts in the proceedings by stipulation in writing filed at any stage in the proceedings or orally made at the hearing.

4.5(16) Any party served notice of hearing may seek to show cause for a continuance to a date certain at or before the time set for hearing.

4.5(17) The board may adjourn a hearing from time to time at its discretion.

4.5(18) Upon filing of a request by a third party to intervene, the board chairperson will determine whether the applicant has a legitimate interest in the proceedings and can contribute materially to the interpretation and settlement of the issues. Both original parties to the appeal will be advised of participation by a third party. If participation is denied, the written denial will include reasons for the denial.

4.5(19) If a K-12 school budget is appealed, that portion of expenditures attributable to the area education agency will be defended by a knowledgeable official of the area education agency.

4.5(20) At the conclusion of arguments, the board may entertain oral closing argument or additional briefing at its discretion.

4.5(21) Prior to a final decision, the board may reopen a hearing when new pertinent evidence becomes available that could not, with reasonable diligence, have been presented at the original hearing. This hearing need not be held in the county of original jurisdiction.

4.5(22) Any board member who has a possible conflict of interest in any matter resulting in a hearing will recuse themselves from serving during the hearing and from participation in the deliberations and decision resulting from the hearing. In the event one or more board members are recused, the board's decision will be made and issued by a majority of the remaining board members.

4.5(23) A member of the board does not have a conflict of interest by reason of residency within the geographical boundaries of the local government whose budget is appealed.

543—4.6(24) Decision.

4.6(1) The board will issue a written decision. The decision will include:

a. Identification of parties and basic issues.

b. Summary of findings of fact.

c. Summary of conclusions of law.

d. Decision.

e. Reasons for decision.

f. Order for implementation of the decision.

4.6(2) The board may approve, disapprove, or reduce items under appeal but in no event may it increase a budget, expenditure, tax levy or assessment or any item contained therein.

4.6(3) The decision is final and binding unless there is a rehearing or judicial review of the decision.

4.6(4) Either party may request rehearing, stating the specific grounds thereof and the relief sought, within 20 days after the issuance of the final decision. Such requests will be deemed denied unless the board sets a rehearing date within 20 days after the request is filed. This hearing need not be held in the county of original jurisdiction.

4.6(5) The board will notify the county auditor and both parties of the board's decision. Where other county auditors are affected, the county auditor is obligated to promptly inform the other county auditors of the board's decision and order.

543—4.7(24) Amendments.

4.7(1) Protests of amendments to budgets will be considered within the same general procedures and time constraints as are applicable to original budgets.

4.7(2) Any local budget has to be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and decision rendered before June 30. The amendment of a budget after May 31, that is properly appealed but without adequate time for hearing and decision before June 30, will be ruled null and void.

These rules are intended to implement Iowa Code sections 24.26 through 24.32.