

CHAPTER 5
BUDGET APPEALS

[Prior to 5/4/88, see Appeal Board, State[60] Ch 5]

543—5.1(24) Organization.

5.1(1) The state appeal board by which protests of local government budgets are considered has statutory authority under Iowa Code chapter 24. The three ex officio and voting members are:

Treasurer of State	Telephone (515)281-5366
Auditor of State	Telephone (515)281-5834
Director of the Department of Management	Telephone (515)281-3322

5.1(2) The board is assisted by the executive secretary named by the board [telephone (515)281-5512], one or more special assistant attorneys general for claims and such other staff support as necessary from their respective offices.

5.1(3) It is the intent of these rules that the manner of presentation and the conduct of hearings and appeals shall be simple and informal, subject only to such rules as may be prescribed by the state appeal board.

543—5.2(24) Inquiries.

5.2(1) Inquiries as to procedures may be directed to any appeal board member or the executive secretary at the telephone numbers given.

5.2(2) Written inquiries may be addressed to any one of the members at their respective offices, all of which are located in the State Capitol Building, Des Moines, Iowa 50319.

543—5.3(24) Declaratory orders.

5.3(1) Any interested person(s) may submit to the executive secretary of the board a petition for a declaratory order regarding the application to a specific factual situation of a statute, rule, decision, order, or other written statement of law or policy. The petition requesting the order shall contain the name(s) of the person(s) requesting the order, the specific factual background of the question, the statute, rule, decision, order or other written statement of law or policy deemed applicable and the reasons for the request.

5.3(2) The board may demand that the request be clarified or that additional facts be set forth. Failure of the person(s) requesting a declaratory order to clarify the request or set forth additional facts to the satisfaction of the board shall be grounds for dismissal of the petition.

543—5.4(24) Request for rule change.

5.4(1) Any interested person(s) may file with the executive secretary of the board a written request that the board adopt, amend or repeal a rule. To be valid, the request shall:

- a. Be addressed to the executive secretary of the board.
- b. State the name(s) of those requesting the change.
- c. Set forth the proposed rule, or the prior rule as it would be after amendment.
- d. Describe specifically the reason for the proposed rule or requested change.
- e. Describe the statutory authority for the new rule or requested change.

5.4(2) Within 60 days of the receipt of the request by the executive secretary, the board shall either deny the request, stating the reasons for denial in writing, or initiate rule-making proceedings.

543—5.5(24) Filings.

5.5(1) The required number of signatures is subject to voting records. Voting record information is obtained from the county auditor (election commissioner). Verification of the required signatures shall be made by the appeal board.

5.5(2) For a budget or amendment appeal for all local governments other than a city, the protest must 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 shall not be less than 10, and the number need not be more than 100 persons.

5.5(3) For a city budget or amendment appeal, the protest must 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 shall not be less than 10 and the number need not be more than 100 persons.

5.5(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.

5.5(5) It is the responsibility of the county auditor to notify the appeal board and the appropriate local government upon receipt of an appeal petition. Such filing by the 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 appeal board is through its executive secretary.

5.5(6) Any appeal and supporting documents shall be legible. Clear carbon copies or processed copies are acceptable.

5.5(7) Signatures shall be accompanied by legible and full mailing addresses.

5.5(8) Petitioners need not have appeared and entered objection at the public hearing at which the protested budget was considered.

5.5(9) The board shall 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.

5.5(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.

5.5(11) There is no required format for an appeal. The content 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.

5.5(12) Illustration of appeal format.

To: State Appeal Board

State Capitol

Des Moines, IA 50319

We, the undersigned, protest the action of the officials of (local government) in certification of their 19 – 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.		
2.	(Additional signature sheets may be attached without the	
3.	full heading, it being assumed those subscribing their names are fully aware of the stated appeal, objections and	
10.	reasons. Minimal headings on attached sheets should indicate "Protest to _____ (local government) _____ Budget, 19 ____ - ____."	
100.		

5.5(13) The burden is upon objectors for any proposed item which 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.

5.5(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—5.6(24) Scheduling and notice of hearings.

5.6(1) Dates for hearings shall be set by the appeal board. When a date is set, notice shall 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.

5.6(2) This notice shall be mailed at least five days prior to the hearing.

543—5.7(24) Hearings.

5.7(1) Hearings shall 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.

5.7(2) The appeal 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.

5.7(3) The hearing shall be held in a public place and shall be open to the public. The hearing shall be conducted so as to give all parties a fair opportunity to be heard.

5.7(4) The appeal board secretary shall 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.

5.7(5) If a party entitled to a hearing fails to appear, that party shall be deemed to have waived opportunity for the hearing or to participate in the hearing unless there is show of good cause for such failure.

5.7(6) Legal counsel shall be at the discretion and expense of either party to the appeal.

5.7(7) Parties appearing before the appeal board should select one or two persons to serve as primary spokespersons for their position.

5.7(8) The appeal board shall exclude evidence which is irrelevant, immaterial or unduly repetitious.

5.7(9) Written or printed materials shall be in sufficient quantity to supply at least three copies for the appeal board and one copy for the other party to the appeal.

5.7(10) Any party requesting a certified shorthand or court reporter shall make arrangements for such attendance and expense.

5.7(11) At the outset of each hearing, the presiding appeal board officer shall 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.

5.7(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.

5.7(13) The board shall 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.

5.7(14) Appeal board members or the presiding hearing officer shall be free to ask questions of anyone at any point during any hearing.

5.7(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.

5.7(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.

5.7(17) The appeal board may adjourn a hearing for good cause from time to time, upon request of either party or legal counsel representing the board, for the purpose of a fair hearing.

5.7(18) Upon filing of a request by a third party to intervene, the appeal board chairperson shall 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 shall be advised of participation by a third party. If participation is denied, the written denial shall include reasons.

5.7(19) If a K-12 school budget is appealed, that portion of expenditures attributable to the area education agency shall be defended by a knowledgeable official of the area education agency.

5.7(20) At the conclusion of arguments, each party shall have opportunity to submit written briefs, or additional written briefs if they have already done so. A copy must also be delivered to the other party. The presiding officer shall determine time limits for the additional filings.

5.7(21) Prior to a final decision, the appeal board may reopen a hearing when new pertinent evidence becomes available which could not, with reasonable diligence, have been presented at the original hearing. This hearing need not be held in the county of original jurisdiction.

5.7(22) Any board member who has a possible conflict of interest in any matter resulting in a hearing shall be disqualified from serving during the hearing and from participation in the deliberations and decision resulting from the hearing.

5.7(23) A member of the appeal 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—5.8(24) Decision.

5.8(1) Decisions shall always be in writing and rendered at a time following the hearing.

5.8(2) The decision shall 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.

5.8(3) The appeal 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.

5.8(4) The decision is final and binding unless there is a rehearing or appeal to the courts.

5.8(5) 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 shall be deemed denied unless the appeal 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.

5.8(6) The appeal board shall notify the county auditor and both parties according to names on the original notices for the hearing. Where other county auditors are affected, they should be promptly informed of the decision and order by the auditor receiving the notice of the decision.

543—5.9(24) Amendments.

5.9(1) Protests of amendments to budgets will be considered within the same general procedures and time constraints as are applicable to original budgets.

5.9(2) Any local budget must 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, which is properly appealed but without adequate time for hearing and decision before June 30, shall be ruled null and void.

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

[Filed 2/12/82, Notice 1/6/82—published 3/3/82, effective 4/7/82]

[Filed emergency 4/15/88—published 5/4/88, effective 4/15/88]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]