



## Legislation Text

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### **Resolution adopting written policies and procedures to monitor the requirements of Section 148 of the Internal Revenue Code (B)**

**This item involves a request for the City Commission to adopt the proposed resolution adopting written policies and procedures to monitor the requirements of Section 148 of the Internal Revenue Code.**

The IRS has modified Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, which is a form governmental entities are required to submit when issuing tax-exempt debt. The modification requires the issuer to answer two questions:

- 1) Has the issuer established written procedures to ensure that all nonqualified bonds of the issue are remediated according to requirements under the IRS Code; and
- 2) Has the issuer established written procedures to monitor the requirements of Section 148 of the Code.

The procedures referred to under the Code requirements are processes which are already in practice here at the City of Gainesville. They include such steps as:

- Obtaining written certifications from underwriters as to the offering prices of tax-exempt bonds;
- Maintaining accounting procedures for tracking the investment and expenditures of bond proceeds;
- Reviewing proposed contracts with non-governmental organizations with respect to bond-financed facilities which could result in private use of the facilities to ensure that limits on private business use are not exceeded;
- Preparing and submitting applicable arbitrage, yield restriction and rebate compliance reports; and
- Taking remedial steps if actions cause the interest on tax-exempt bonds to become includable in the gross income of holders of the bonds.

Regardless of the fact that the City is currently practicing the processes, bond counsel advises adopting the written policies attached to this resolution to augment existing City debt management policies. Bond counsel advises there are several potential benefits to formal adoption of the policies and procedures. First, the IRS has implied that absence of the written policies may be one of the screening parameters for determination of audits. Second, for those entities that are audited and found to have deficiencies, existence of these written policies may have a mitigating effect on the degree of potential penalties.

There is no fiscal impact related to the adoption of the policies other than the opportunity to reduce potential penalties.

The City Commission adopt the proposed resolution.