



# Lake County Illinois

## Legislation Text

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**File #:** 11-0076, **Version:** 1

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Resolution approving a Bond Record-Keeping Policy.

- The County has recently issued tax-exempt bonds which qualify as build America bonds and recovery zone economic development bonds.
- Pursuant to certain provisions of the bonds the County expects to take all actions necessary to preserve the status and qualification of such bonds as tax-exempt obligations.
- It is necessary and in the best interests of the County to maintain records to demonstrate compliance with such expectations and to adopt policies with respect thereto.

Resolution Approving a Bond Record-Keeping Policy for The County of  
Lake, Illinois.

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Whereas, The County of Lake, Illinois (the “*County*”), has issued tax-exempt bonds and other obligations (pursuant to Section 103 of the Internal Revenue Code), bonds which qualify as “build America bonds” (pursuant to the American Recovery and Reinvestment Act, the “*Stimulus Act*”) and also bonds which qualify as “recovery zone economic development bonds” (pursuant to the Stimulus Act) (which tax-exempt bonds and other obligations, build America bonds and recovery zone economic development bonds may be referred to, collectively, as “*Tax-Advantaged Bonds*”); and

Whereas, pursuant to the proceedings and agreements under which the various series of Tax-Advantaged Bonds have been issued, the County has indicated that it reasonably expects to take all actions necessary to preserve the status and qualification of such series of bonds as tax-exempt obligations, build America bonds or recovery zone economic development bonds, as applicable; and

Whereas, it is necessary and in the best interests of the County to maintain sufficient records to demonstrate compliance with such expectations and to adopt policies with respect thereto; and

Whereas, the County issues bonds generally under the auspices of two County departments, being the Department of Public Works (“*DPW*”) for its public works programs for water and sewer services (“*DPW Bonds*”) and the office of the County Administrator for all other purposes (“*General Purpose Bonds*”):

Now, Therefore, Be It and It Is Hereby Resolved by the County Board of The County of Lake, Illinois, as follows:

*Section 1. Incorporation of Preambles.* The County Board of the County (the “Board”) hereby finds that all of the recitals contained in the preambles to this Resolution are true and correct and does incorporate them into this Resolution by this reference.

*Section 2. Compliance Officers Are Responsible for Records.* The Director of DPW for DPW Bonds and the County Administrator (or his or her designee in writing, filed with the County Clerk) for General Purpose Bonds (each known, for purposes of this Resolution only, as the “Compliance Officer” and collectively the “Compliance Officers”) are hereby designated as the keeper of all records of the County with respect to Tax-Advantaged Bonds, and such officers shall report at least annually in that they have all of the required records in their possession, respectively, or is (are) taking appropriate action to obtain or recover such records.

*Section 3. Closing Transcripts.* For each issue of Tax-Advantaged Bonds for which he or she is responsible, the Compliance Officer shall receive, and shall keep and maintain, a true, correct and complete counterpart of each and every document and agreement delivered in connection with the issuance of such Tax-Advantaged Bonds, including without limitation (a) the proceedings of the County authorizing such Tax-Advantaged Bonds, (b) any offering document with respect to the offer and sale of such Tax-Advantaged Bonds, (c) any legal opinions with respect to such Tax-Advantaged Bonds delivered by any lawyers, and (d) all written representations of any person delivered in connection with the issuance and initial sale of such Tax-Advantaged Bonds.

*Section 4. Arbitrage Rebate Liability.* Each Compliance Officer shall review the agreements of the County with respect to the issue of such Tax-Advantaged Bonds and shall prepare a report stating whether or not the County has any rebate liability to the United States Treasury, and setting forth any applicable exemptions that the issue of such Tax-Advantaged Bonds may have from rebate liability. Such report shall be updated annually and delivered to the County Treasurer office.

Subsequently, if it is determined upon due date that a net rebate liability is incurred; each Compliance Officer shall follow up with a request to process a payment to fulfill the rebate liability

*Section 5. Recommended Records.* Each Compliance Officer shall review the records related to the issue of such Tax-Advantaged Bonds and shall determine what requirements the County must meet in order to maintain the status and qualification of such Tax-Advantaged Bonds as tax-exempt bonds, build America bonds or recovery zone economic development bonds, as applicable. The Compliance Officer shall then prepare a list of the contracts, requisitions, invoices, receipts and other information that may be needed in order to establish the status and qualification of such Tax-Advantaged Bonds as tax-exempt obligations, build America bonds or recovery zone economic development bonds, as applicable. Notwithstanding any other policy of the County, such retained records shall be kept for as long as the relevant series of Tax-Advantaged Bonds relating to such records (and any obligations issued to refund such bonds) are outstanding, plus three years, and shall at least include:

- (a) complete copies of the bond transcripts delivered when any issue of Tax-Advantaged Bonds is initially issued and sold;
- (b) copies of account statements showing the disbursements of all bond proceeds for their intended purposes;
- (c) copies of account statements showing all investment activity of any and all accounts in which the proceeds of any issue of Tax-Advantaged Bonds has been held;
- (d) copies of all bid requests and bid responses used in the acquisition of any special investments used for the proceeds of any Tax-Advantaged Bonds, including any swaps, swaptions, or other financial derivatives entered into with respect to any Tax-Advantaged Bonds in order to establish that such instruments were purchased at *fair market value*;
- (e) copies of any subscriptions to the United States Treasury for the purchase of State and Local Government Series (SLGS) obligations;
- (f) any calculations of liability for *arbitrage rebate* that is or may become due with respect to any Tax-Advantaged Bonds, and any calculations prepared to show that no arbitrage rebate is due, together, if applicable, with account statements or cancelled checks showing the payment of any rebate amounts to the United States Treasury together with any applicable IRS Form 8038-T or successor form;

(g) copies of all contracts of the County, including any leases, with respect to the use of any property owned by the County and acquired or financed with the proceeds of Tax-Advantaged Bonds, any part of which property is used by a private person at any time when such bonds are or have been outstanding; and

(h) copies of any and all other federal information or other returns made with respect to Tax-Advantaged Bonds.

*Section 6. IRS Examination.* In the event the Internal Revenue Service (“IRS”) commences an examination of any issue of Tax-Advantaged Bonds, the responsible Compliance Officer shall inform the Board of such event and is authorized to respond to inquiries of the IRS and to hire outside, independent professional counsel to assist in the response to the examination.

*Section 7. Severability.* If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

*Section 8. Repeal.* All resolutions or parts thereof in conflict herewith be and the same are hereby repealed, and this Resolution shall be in full force and effect forthwith upon its adoption.

DATED, at Waukegan, Lake County, Illinois, on this 15th day of March, A.D., 2011.

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