



# Office of the City Clerk

City Hall  
121 N. LaSalle St.  
Room 107  
Chicago, IL 60602  
www.chicityclerk.com

## Legislation Details (With Text)

**File #:** O2018-7999

**Type:** Ordinance      **Status:** Failed to Pass

**File created:** 10/31/2018      **In control:** City Council

**Final action:**

**Title:** Amendment of Municipal Code Chapter 2-32 by adding new Article XIV supplementing provisions regarding selection of depository banks and investment of City funds and modifying Chapter 2-92 by adding new Section 2-92-587 prohibiting city contractors from doing business with Saudia Arabia or related businesses

**Sponsors:** Burke, Edward M., Hopkins, Brian, Sawyer, Roderick T., Reilly, Brendan, O'Connor, Patrick

**Indexes:** Ch. 32 Dept. of Finance, Ch. 92 Dept. of Purchases, Contracts & Supplies

**Attachments:** 1. O2018-7999.pdf

Date	Ver.	Action By	Action	Result
5/29/2019	1	City Council	Failed to Pass	
10/31/2018	1	City Council	Referred	

### ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the Kingdom of Saudi Arabia has been strongly implicated in the disappearance and murder of a Washington Post journalist and Saudi-Citizen, Jamal Khashoggi, at a Saudi Consulate in Istanbul on October 2, 2018; and

WHEREAS, fifteen Saudi agents were waiting for Khashoggi inside the Saudi consulate the moment he arrived, at about 1:15 p.m. on October 2 2018; and

WHEREAS, Khashoggi was going to the Saudi consulate to collect documents for his upcoming wedding; and

WHEREAS, senior Turkish officials have described an audio recording corroborating that Khahoggi's killers severed his fingers and later dismembered and beheaded him while he was still conscious; and,

WHEREAS, Turkish officials have also shared with the New York Times that Saudi consul, Mohammad al-Otaibi, is purported to have told the killers, "Do this outside. You will put me in trouble;" and,

WHEREAS, one of the men is said to have replied "Shut up, if you want to live when you return to Saudi Arabia;" and

WHEREAS, al-Otaibi has since been dismissed from his post and recalled to Saudi Arabia; and

WHEREAS, several of the fifteen men who arrived at the consulate just moments before Khashoggi have close ties Crown Prince Mohamed bin Salman (oi iP^ o> ±>\*\*) (MBS); and

WHEREAS, Maher Abdulaziz Mutreb, one of the men, is a Saudi diplomat and intelligence officer, who frequently traveled with MBS, including in the United States; and

WHEREAS, another suspect is Abdulaziz Mohammed al-Hawsawi, who works as one of MBS's personal bodyguards; and

WHEREAS, two other suspects, Thaar Ghaleb al-Harbi and Muhammed Saad Alzahrani, also operate as royal guards; and

WHEREAS, yet another suspect, Salah al-Tubaigy, works as the head of Saudi Arabia's Scientific Council of Forensics and specializes in mobile autopsies; and

WHEREAS,, the team of fifteen men left the country within hours after the disappearance; and

WHEREAS, Saudi Arabia acknowledges having sent a "security team" to the consulate that day; and

WHEREAS, video footage confirms several large diplomatic boxes left the consulate approximately two hours after Khashoggi arrived; and

WHEREAS, Saudi Arabia has not been able to provide footage from the consulate showing that Khashoggi ever left; and

WHEREAS, the City of Chicago has in the past advanced measures which ensure that municipal resources and tax dollars are invested ethically, including the McBride Ordinance, Anti-Apartheid Ordinance, and Slavery Disclosure Ordinance;

**WHEREAS, the City of Chicago has been similarly outraged by the circumstances surrounding Khashoggi disappearance; NOW, THEREFORE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO :**

SECTION 1. Chapter 2-32 of the Municipal Code of Chicago is hereby amended by inserting Sections as follows:

#### ARTICLE XIV

##### **2-32-1400. Applicability of Section.**

The provisions of Sections 2-32-1400 through 2-32-1500 of this chapter are intended to supplement the provisions of the code relating to selection of depository banks and investment of City funds. To the extent of any conflict between these sections and any state law or prior ordinance, the provisions of these sections shall

control.

## **2-32-1420. Definitions.**

Unless the context clearly indicates otherwise, whenever used in these sections:

- a) "Saudi Arabia" means its government and every political subdivision, department, or other agency of its government; public utilities and any national corporation in which any of the foregoing have a financial interest or operational responsibilities
- b) "Saudi Arabian Business" means (i) a person or an entity organized to do business under the laws of the Kingdom of Saudi Arabia, or (ii) an entity established for the express purpose of doing business in Saudi Arabia
- c) "Doing business" means engaging in the activity of a business, commercial enterprise, trade, calling, vocation, profession or means of livelihood.
- d) "Affiliate" means an entity's parent company, an entity's subsidiary, or another subsidiary of an entity's parent.
- e) "Parent Company" means an entity that directly controls another.
- f) "Subsidiary" means an entity controlled, directly or indirectly through one or more intermediaries, by another entity.
- g) "Control" means holding 10% or more of the outstanding voting securities of a corporation, or having an interest of 10% or more in any other entity, unless it can be otherwise established that such ownership interest does not constitute authority to direct or significantly affect the management decisions of such other entity; provided, however, for purposes of securities held by a financial institution, "Control" shall mean holding 25% or more of the outstanding voting securities of a corporation, or having an interest of 25% or more in any other entity.
- h) "City Funds" means City of Chicago funds, including without limitation general obligation bond and note funds, including airport, water, sewer or other City revenue funds for which the City is responsible for collection of user fees and charges (collectively "City Revenue Funds"); general corporate funds; special revenue funds, and deferred compensation funds; provided, however, that "City Funds" shall not include Chicago Board of Education funds, or funds other than the City Revenue funds generated by the bond or note issues if the party unconditionally obligated to repay the bonds or notes is any party other than the City.
- (i) "Financial institution" means any federal or state chartered bank or holding or trust company; federal or state savings and loan or building and loan

association or thrift institution; and any other institution permitted by state or federal law to receive deposits of money and to pay out such money through loans, draft accounts or the sale of financial institution securities. "Financial institution" also includes affiliates of the foregoing.

- (j) "Loan" means a financial transaction involving the extending of credit, including letters of credit, other credit enhancements and lines of credit, and includes the renegotiation, extension, rescheduling or rolling over of a prior loan. Loan provisions of these sections apply to each member of a lending consortium.
- (k) "Professional services" means compensated services of a person possessing a high degree of skill, where the ability or fitness of the person plays an important part.
- (l) "Contract" means any contract or purchase order or agreement awarded by any officer or agency of the city for purchasing agreements, and whose cost is to be paid from funds belonging to or administered by the City.
- (m) "Contractor" means any person or business entity that seeks to enter into a contract for goods and/or services with the City, and includes all partners, affiliates and joint ventures of such entity.
- (n) "Subcontractor" means any person that enters into a subcontract agreement directly with a contractor for any work under a contract where such person is a natural person or business entity.

#### **2-32-1430. Deposit and Investment of City Funds in Financial Institutions.**

No City Funds shall be deposited or remain deposited in any financial institution, nor shall City Funds be invested in or remain invested in the stock, bonds, securities, or other obligations of any financial institution, if that institution has any outstanding loan to: (a) Saudi Arabia; (b) a Saudi Arabian business; or (c) any business or corporation for the express purpose of assisting in operations in or trading with any private or public entity located in the Kingdom of Saudi Arabia. This prohibition shall not apply to any financial institution that complies with Section 2-32-1440.

#### **2-32-1440. Compliance Procedure for Financial Institutions.**

- (a) Before any City Funds may be deposited or invested in any financial institution, an authorized officer of the institution shall certify whether the institution has outstanding loans prohibited by Section 2-32-1430.

(b) If the institution has such loans, the institution must certify:

- i) that it maintains a policy not to make any such loans in the future until the whereabouts and circumstances surrounding the disappearance of Jamal Khashoggi have been confirmed; and
- ii) that the institution is actively pursuing a program of liquidating all such loans; and
- iii) that the institution will complete the liquidation of such loans within one year from the date of the certification; and
- (iv) that in the process of liquidation the institution will not convert any of its Saudi Arabian outstanding loans having maturity dates longer than those of the present loans.

(c) The certifications and reports required by these sections shall be contained in affidavits, subscribed on personal knowledge of the affiant under penalty of perjury. The form of the affidavits shall be approved by the Corporation Counsel. Execution of the affidavits provided for herein shall be prima facie evidence of compliance with the requirements of these sections.

**2-32-1450. Waiver Procedure.**

- a) The prohibitions described in Subsections 2-32-1430(b) and 2-32-1430(c) shall not apply if the City Comptroller determines:
  - i) that no eligible financial institution is available which is capable of performing effectively the desired function; or
  - ii) that the City will incur a significant financial loss or a significant loss in quality of services as a consequence of the prohibitions.
- b) Upon making such a determination, the City Comptroller shall endeavor to select the financial institution that best meets the two following criteria:
  - i) maintains policies that conform to the greatest extent with the policies of these sections; and
  - ii) is most capable of providing the level of service and/or investment return equal to that which the City could have received if the prohibitions in Subsections 2-32-1230(b) and 2-1230(c) had not been enacted.<sup>1</sup>
- c) A financial institution selected pursuant to this section shall submit to the City Comptroller a summary description of the number and outstanding balances of loans to entities described in Subsections 2-32-1430(b)

and 2-1430(c) held by the institution.

d) Within one month after the end of each calendar quarter, the City Comptroller shall file with the City Clerk a list of all transactions in which he selected a financial institution pursuant to this section during the preceding calendar quarter.

#### **2-32-1460. Withdrawal of City Deposits and Divestiture of City Investments.**

If the City Comptroller determines that City Funds are deposited or invested in a financial institution that is not in compliance with these sections, he shall notify the institution that withdrawal of the City's deposits or divestiture of the City's investments is required under this section. Withdrawal or divestiture under this section shall be completed within six months thereafter, unless withdrawal or divestiture within that time would subject the City to financial

loss or penalty. In such case withdrawal or divestiture shall be completed as soon as allowed without loss or penalty to the City.

#### **2-32-1470. Other City Investments.**

No City Funds shall be invested either directly or indirectly through a broker, dealer or trustee in the stock, bonds, securities or other obligations of (a) Saudi Arabia (b) or (c) a Saudi Arabian business entity. The City Comptroller shall divest the City of all such stocks, bonds, securities or other obligations within six months after the passage of these sections, unless divestiture within that time would subject the City to a financial loss or penalty. In such case divestiture shall be completed as soon as allowed without penalty to the City.

#### **2-32-1480. Prohibitions Applicable to Entities Performing Different Functions.**

If a financial institution is disqualified from receiving deposits or investments of City Funds pursuant to these sections, it shall also be disqualified from providing professional services to the City. If a professional services contractor is disqualified from providing professional services to the City pursuant to these sections, it shall also be disqualified from receiving deposits or investments of City Funds.

#### **2-32-1490. Penalties for Violation.**

Any person who violates any provision of these sections shall be subject to a fine of not less than \$500 and not more than \$1,000 per day that such violation continues. Each day shall constitute a separate offense.

#### **2-32-1500. Limitation of Applicability.**

The provision of these sections shall not apply to (a) any contract where application of these sections would be in violation of or contrary to applicable federal law or regulations; (b) activities of religious, educational or charitable organizations which are provided on an equal opportunity basis; (c) activities intended to promote the exchange of information, including the publication or sale of newspapers, magazines, books, films, television programming, photographs, microfilms, microfiche and similar materials; (d) the gathering or dissemination of information by news media organizations; (e) the providing of telecommunications and mail

service not involving the sale or lease of equipment; (f) any and all functions of an aircraft operator at a municipal airport.

SECTION 2. Chapter 2-92 of the Municipal Code of Chicago is hereby amended by inserting new Section 2-92-587 as follows:

**2-92-587 Prohibition on Contracts with Saudi Arabia and Saudi Arabian Businesses.**

a) Any solicitation for a contract advertised or otherwise communicated by the City on or after a year from the passage and publication of this ordinance shall include a specification that the contractor shall provide an affidavit, on personal knowledge of the affiant under penalty of perjury, specifying that the contractor does not do business with: (i) Saudi Arabia; (ii) a Saudi Arabian business; or (iii) any business or corporation for the express purpose of assisting in operations in or trading with any private or public entity located in the Kingdom of Saudi Arabia. The form of the affidavits shall be approved by the Corporation Counsel. Execution of the affidavits provided for herein shall be prima facie evidence of compliance with the requirements of these sections.

b) A contractor's failure to comply with this section 2-32-1490(a) shall constitute an event of default. In the event of default for failure to comply with this section, the chief procurement officer shall notify the contractor of such non-compliance and may, as appropriate (i) issue the contractor a 30-day opportunity to cure; (ii) terminate the contract; or (iii) terminate the contract and re-bid the remaining contract. This section shall not be construed to prohibit the City from also prosecuting any person who makes a false statement of material fact to the City pursuant to Chapter 1 -21 of the Code.

c) If a contractor currently does business with those entities prohibited under Section 2-32-1490(a), the contractor must certify:

- i) that it will not engage in any new business with any entity prohibited under Section 2-32-1490 (a) until the whereabouts and circumstances surrounding the disappearance of Jamal Khashoggi have been confirmed; and
- ii) the contractor will cease to do business with all such entities within one year from the date of the passage and publication of this ordinance

d) The certifications and reports required by these sections shall be contained in affidavits, subscribed on personal knowledge of the affiant under penalty of perjury. The form of the affidavits shall be approved by the Corporation Counsel. Execution of the affidavits provided for herein shall be prima facie evidence of compliance with the requirements of these sections.

(e) For purposes of this Section "Saudi Arabia" and "Saudi Arabian Business" has the same definitions as set forth in Section 2-32-1420 of this Code.

### SECTION 3. Severability.

If any portion, phrase, word or other provision of these sections, or any application of these sections to any set of circumstances, shall be determined by any court to be invalid for any reason, the validity of the remaining portions, phrases, words and provisions of these sections and its application to other circumstances shall not be affected thereby. The City Council hereby

declares that these sections would have been adopted regardless of the deletion of any invalid portion, phrase, word, provision or application hereof.

SECTION 4. This ordinance shall be in full force and effect after its passage and publication.

Edward M. Burke Alderman, 14<sup>th</sup> Ward

Roderick Sawyer Alderman, 6<sup>th</sup> Ward

Patrick O'Connor Alderman, 40<sup>th</sup> Ward

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