



# Office of the City Clerk

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## Legislation Text

File #: O2011-727, Version: 1

### ORDINANCE For Auditor General

WHEREAS, the taxpayers of the City of Chicago are entitled to know whether their city government is being operated and managed in the most efficient and effective manner possible, and

WHEREAS, the taxpayers of the City of Chicago are entitled to an open and transparent accounting of all taxes, receipts, fees, fines, and other revenue received by the City of Chicago; and

WHEREAS, the taxpayers of the City of Chicago are entitled to an open and transparent accounting of the obligation, expenditure, and use of all City of Chicago funds; and

WHEREAS, the taxpayers of the City of Chicago are entitled to an open and transparent accounting of all property, equipment and supplies owned and maintained by the City of Chicago; and

WHEREAS, the City Treasurer of the City of Chicago, as one of three city-wide elected officials, is the custodian and manager of all City funds and investments; and

WHEREAS, the City Council of the City of Chicago, as the local elected representatives of the taxpayers of Chicago, is responsible for the appropriation of funds for the operation of all city agencies, offices and commissions;

WHEREAS, the City Council Committee on Budget and Government Operations has jurisdiction over the expenditure of funds appropriated and expended by the City of Chicago, and over all matters concerning the organization, reorganization and efficient management of City government; and

WHEREAS, the taxpayers of the City of Chicago demand a government free of waste, fraud and mismanagement and hold its leaders, managers and employees to the highest standards of accountability; and

WHEREAS, the creation of a fiscal watchdog agency, independent from the administration and management of city operations, and free of financial conflicts of interests or political interference, is in the best interests of the taxpayers of the City of Chicago, therefore

*Be It Ordained by the City Council of the City of Chicago:*

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

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SECTION 2. Title 2 of the Municipal Code of Chicago is hereby amended by inserting a new chapter 2-58, as follows:

#### **2-58-010 Office of Auditor General - Establishment.**

There is hereby established an independent office of Auditor General within the office of City Treasurer. The office of the Auditor General shall include an Auditor General and such deputies, assistants and other employees as may be provided for in the annual appropriation ordinance.

#### **2-58-020 Auditor General - Appointment And Qualifications.**

(a) The Auditor General shall be appointed by the City Treasurer with the advice and consent of the City Council.

(b) The Auditor General shall have the following minimum qualifications:

- (1) Not been convicted of any felony under the laws of the state of Illinois, another state, or the United States;
- (2) Competent in governmental auditing, financial management, or government operation;
- (3) Knowledgeable in the operation of local and state government; and

**(4) A minimum of ten years of private or government experience as an auditor. 2-58-030 Auditor**

### **General - Prohibitions.**

The Auditor General, and his or her deputies, employees, during their term, tenure, or contract with the Office, are prohibited from the following activities:

- (a) No Auditor General or employee of the office of Auditor General may, during his or her term of appointment or employment: (i) hold, or become a candidate for, any other elective or appointed public office except for appointments to governmental advisory boards or study commissions or as otherwise expressly authorized by law; or (ii) actively participate in any campaign for any elective office.
- (b) No Auditor General, for one year after the termination of his or her appointment for any reason, shall: (i) become a candidate for any elective office in the City of Chicago; or (ii) hold any elected public office in the City of Chicago.
- (c) Neither the Auditor General nor any employee of the office of Auditor General shall hold any legal, equitable, creditor or debt interest in any partnership, firm or other entity which contracts with the Office of Auditor General, the Office of City Treasurer, the City Council, or the City of Chicago during his or her term or tenure;
- (d) Neither the Auditor General nor any employee of the office of Auditor General shall have any direct or indirect financial or economic interest in the transactions of any agency audited by the Office of Auditor General during his or her term or tenure; and
- (e) Neither the Auditor General nor any employee of the office of Auditor General shall conduct or supervise a post audit of any agency for which he or she was responsible or by which he or she was employed or with which he or she contracted during the preceding 4 years; and
- (f) Neither the Auditor General nor any employee of the office of Auditor General shall make or report publicly any charges of nonfeasance or malfeasance of any person unless he knows of reasonable grounds, based upon accepted auditing and accounting standards, for such charges.

#### **2-58-040 Auditor General - Term Of Office.**

The Auditor General shall be appointed for a term of five years, commencing with the effective date of his or her appointment. The appointment of Auditor General shall become effective upon the day the appointment is confirmed by the City Council. At the conclusion of his or her term, the Auditor General becomes Acting Auditor General until the appointment and qualification of a successor. The appointment of an Auditor General may be renewed upon recommendation of City Treasurer and a three-fifths (3/5<sup>th</sup>) vote of all the aldermen entitled by law to be elected.

#### **2-58-050 Auditor General - Removal From Office.**

The Auditor General may be removed prior to the expiration of his or her term only for cause and in accordance with the provisions of this section. The City Treasurer shall give written notice to the Auditor General of the cause of his or her intended removal. Within ten days after receipt of the notice, the Auditor General may file with the Committee on Budget and Government Operations for a hearing on the cause for removal. If no such request is made within ten days, the Auditor General shall be deemed to have resigned his office as of the tenth day after receipt of the notice of intended removal. If such a request is made, the Committee on Budget and Government Operations shall convene a hearing on the cause for removal of the Auditor General, at which the Auditor General may appear, be represented by counsel and be heard. The hearing shall be convened within ten days after receipt of the request therefore and conclude within fourteen days thereafter. The City Treasurer's notice of intended removal shall constitute the charge against the legislative inspector general. Removal of the Auditor General for cause after the hearing shall require the affirmative vote of a majority of the members of the City Council then holding office.

#### **2-58-060 Auditor General - Vacancy in Office**

A vacancy in the office of Auditor General occurs upon:

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- (a) death or resignation of the Auditor General;

- (b) disqualification or removal of the Auditor General by the City Treasurer and City Council; or
- (c) conclusion of the term of the Auditor General.

When a vacancy occurs, the Deputy Auditor General becomes acting Auditor General, except when the former Auditor General serves as acting Auditor General pursuant to Section 2-58-050. An Acting Auditor General may exercise all the powers and duties of an Auditor General until the appointment of an Auditor General becomes effective.

#### **2-58-070 Auditor General - Powers And Duties.**

In addition to other powers and duties specifically mentioned in this chapter, the Auditor General shall have the powers and duties to conduct audits on all offices, agencies and operations of the City of Chicago, as follows:

- (a) Collect, analyze and preserve statistical and financial information with respect to the cost of operation of the various, departments, agencies, offices, institutions and facilities maintained, operated or owned by the city;
- (b) Collect, analyze and preserve statistical and financial information with respect to the receipt and handling of any taxes, receipts, fees or funds by the various, departments, agencies, offices, institutions and facilities maintained, operated or owned by the city;
- (c) Collect, analyze and preserve statistical and financial information with respect to the delivery of services by the various department, agencies, offices, institutions and facilities, maintained, operated or owned by the city;
- (d) Audit and maintain an inventory of all real and personal property owned by the city under the control and management of the various officers and departments of the city;
- (e) Audit financial and legal compliance with local, state and federal rules, regulations and laws governing the various department, agencies, offices, institutions and facilities, maintained, operated or owned by the city; and
- (f) Refer to the City's Office of Inspector General and the Board of Ethics complaints against all persons over whom the Auditor General lacks jurisdiction.

#### **2-58-080 Auditor General - Audit Requests**

Audits conducted by the Auditor General may be requested or required as follows: (a) Upon written request of City Treasurer;

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- (b) Upon resolution of the Committee on Budget and Government Operations; and
- (c) As required periodically under rules adopted by resolution of the Committee on Budget and Government Operations, with all agencies and commissions of the City of Chicago required to be audited by the Auditor General at least once every four years.

#### **2-58-090 Auditor General - Audit Reports.**

Upon completion of an audit by the Auditor General, the Auditor General shall draft a written report and present the Audit Report publicly at a hearing of the Committee on Budget and Government Operations that will also be attended by the audited agency's officials where those officials will be required to give testimony on the audit findings and to present plans for any necessary corrective action.

Audit Reports may address, but are not limited to, accounts receivable, contracts, expenditure control, leases, misappropriation of funds, personnel and payroll, property control, inventory, purchasing, reimbursements, computer security, telecommunications, and travel.

Audit Reports may include recommendations to the Committee on Budget and Government Operations for correction of any deficiencies found by the audit.

All completed Audit Reports are public records subject to the Freedom of Information Act. Copies of all Audit Reports will be made available to the Mayor, the City Treasurer, members of the City Council and kept on file for public inspection by the office of City Clerk.

#### **2-58-100 Auditor General - Cooperation In Investigations.**

It shall be the duty of every officer, employee, department, agency, contractor, subcontractor and licensee of the city, and every applicant for certification of eligibility for a city contract or program, to cooperate with the Auditor General in any audit undertaken pursuant to this chapter. Each department's premises, equipment, personnel, books, records and papers shall be made available as soon as practicable to the Auditor General.

Every city employment agreement, every city contract, every bid, proposal, application or solicitation for a city contract, and every application for certification of eligibility for a city contract or program shall contain a statement that the person understands and will abide by all provisions of this chapter.

**2-58-110 Auditor General - Investigation By Other Agencies.**

If the Auditor General has a reasonable basis for concluding that an audit has revealed criminal conduct, the Auditor General shall inform the board of ethics, and refer the matter to the Inspector General or the appropriate law enforcement authority.

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**2-58-120 Auditor General - Obstructing Or Interfering With Investigations -Penalty.**

No person shall willfully refuse to comply with an audit conducted by the Auditor General, or otherwise knowingly interfere with or obstruct an audit authorized by this chapter and conducted by an announced auditor of the office of the Auditor General. Any person who willfully violates the provisions of this section shall be subject to a fine of not less than \$300.00 and not more than \$500.00 for each such offense, and/or imprisonment for a period not exceeding six months. Each day that a violation continues shall constitute a separate and distinct offense. Actions seeking the imposition of a fine only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Code of Civil Procedure, as amended. Actions seeking incarceration, or incarceration and a fine, shall be filed and prosecuted as misdemeanor actions under the procedure set forth in Section 1-2-1.1 of the Illinois Municipal Code, as amended.

**2-58-130 Severability.**

If any provision, clause, section, part or application of this chapter to any person or circumstance is declared invalid by any court of competent jurisdiction, such invalidity shall not affect, impair or invalidate the remainder hereof or its application to any other person or circumstance. It is hereby declared to be the legislative intent of the City Council that this chapter would have been adopted had such invalid provision, clause, section, part or application not been included herein. Nothing contained in this chapter is intended otherwise to alter or amend the rights or obligations of the city or any person affected by this ordinance.

SECTION 3. This ordinance shall be in full force and effect on May 16, 2011.

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