

1 HB159
2 125771-3
3 By Representative DeMarco (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 03-MAR-11

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ENROLLED, An Act,

Relating to Jefferson County; to reenact in amended form Act 2009-662, enacted at the 2009 Regular Session of the Legislature (Acts 2009, p. 2029), in order to provide further for and to require the selection and employment of a county manager as an at-will employee of the county who shall serve at the pleasure of the county commission and not for a specified term of office; to revise the ability of the county commission to abolish the position of county manager; to provide further for filling a vacancy in the office of county manager; to provide further qualifications for candidates for the position of county manager; to provide further for the selection, salary, and benefits of the county manager; to provide further for the removal of the county manager for cause; to provide further for the duties of the office of county manager; and to authorize the county manager to hire and dismiss certain staff and employees of the county subject in certain cases to the approval of and in consultation with the commission; and to repeal Section 7 of Act 2009-812, 2009 Special Session (Acts 2009, p. 2528).

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Act 2009-662, 2009 Regular Session (Acts 2009, p. 2029), is amended to read as follows:

1 "Section 1. This act shall apply only to Jefferson
2 County.

3 "Section 2. ~~(a)~~ The Jefferson County Commission, by
4 a four-fifths vote, ~~may~~ shall employ ~~a~~ an at-will county
5 manager to serve as the chief executive officer of the county
6 only in compliance with the requirements set out in this act.

7 ~~"(b) The county commission may provide for an
8 advisory referendum of the qualified electors of the county
9 concerning whether the position of county manager should be
10 established.~~

11 ~~"(c) The county commission, upon a unanimous vote of
12 five commissioners, may abolish the position of county
13 manager. The county commission shall comply with Section 5
14 following a unanimous vote to abolish the position.~~

15 "Section 3. (a) ~~Upon a decision of at least
16 four-fifths of the county commission to hire a county manager,
17 At any time there is a vacancy in the office of county
18 manager, the county commission shall begin a national search
19 for a qualified county manager by retaining a national search
20 firm that specializes in the recruitment of either or both of
21 the following: (1) city and or county managers and city and
22 county department heads; (2) corporate or non-profit
23 executives. The hiring of a county manager shall conform with
24 the anti-discrimination policies of the Jefferson County~~

1 Personnel Board and the Equal Employment Opportunity
 2 Commission.

3 "(b) The search firm, after reviewing applications
 4 and conducting interviews, shall submit to the county
 5 commission the names of no ~~more than five~~ less than three
 6 finalist applicants for additional interview and selection by
 7 the county commission.

8 "(c) The county commission may only hire a county
 9 manager upon a four-fifths vote of the county commission. ~~A~~
 10 ~~county manager shall serve a term of five years subject to the~~
 11 ~~termination provisions in Section 5. At the end of the term,~~
 12 ~~the county commission may rehire the county manager to a new~~
 13 ~~term of five years upon a four-fifths vote.~~ The county manager
 14 shall be exempt from the county merit system.

15 "Section 4. (a) The county commission shall
 16 establish the qualifications of the county manager. The
 17 Jefferson County Personnel Board, at the direction of the
 18 county commission, may assist in establishing the
 19 qualifications. Notwithstanding the foregoing, the county
 20 manager shall possess a Master's Degree in Public
 21 Administration, a Master's Degree in Business Administration,
 22 or a Juris Doctorate degree from an accredited United States
 23 college or university or, in the alternative, a minimum of 10
 24 years aggregate experience as the chief operating officer or
 25 chief executive officer of a public or private organization.

1 The position of county manager shall be full-time in the
 2 service of Jefferson County.

3 "(b) The annual salary of the county manager shall
 4 be set by the county commission at an amount at least equal to
 5 the median salary for a county manager of similar-sized
 6 counties in the southeastern United States.

7 "(c) The county manager may not be a candidate for
 8 election and may engage in political activity on behalf of a
 9 candidate for election in any election within Jefferson County
 10 only as permitted in Section 17-1-4, Code of Alabama 1975.

11 "(d) The county manager, before entering the
 12 discharge of his or her duties, shall execute a nonrecourse
 13 bond with a solvent surety company licensed to do business in
 14 the county in an amount to be approved by the county
 15 commissioners, but no less than fifty thousand dollars
 16 (\$50,000) payable to the county, conditioned on the faithful
 17 performance of his or her duties. The bond shall be secure
 18 against corruption, malfeasance, misappropriation, or unlawful
 19 expenditures. The cost of the bond shall be paid by the
 20 county. The bond shall be delivered to the county commission
 21 within five days of the county manager's assuming his or her
 22 duties and, upon receipt, shall be filed by the commission
 23 clerk with the Probate Court of Jefferson County.

1 "(e) The county commission may pay travel expenses
 2 related to the recruitment of a county manager and to pay
 3 relocation expenses.

4 "(f) The county manager may participate in any of
 5 the county's benefit plans offered to full-time county
 6 employees.

7 "Section 5. (a) A county manager may be terminated
 8 only upon a vote of four-fifths of the county commission. In
 9 the event the termination is made without cause, the county
 10 ~~shall~~ may provide the county manager with a severance package
 11 ~~of three months salary.~~ The county commission may not provide
 12 a severance package to a county manager terminated for cause,
 13 as referenced in Section 6.

14 "(b) Upon the termination of the employment of a
 15 county manager, the county commission, ~~by four-fifths vote~~
 16 shall begin a search for a new manager by hiring a national
 17 search firm that meets the qualifications set forth in
 18 subsection (a) of Section 3 within a reasonable period of
 19 time, not to exceed 90 days.

20 "(c) In the case of vacancy, temporary absence, or
 21 disability in the office of the county manager, the county
 22 commission by a four-fifths vote ~~may~~ shall appoint an acting
 23 county manager, who shall ~~meet the qualifications of the~~
 24 ~~county manager~~ be a non-merit system employee entitled to the
 25 same expense reimbursements and employment benefits as a

1 county manager as set forth in this act. The acting county
 2 manager shall serve until the end of the temporary absence,
 3 removal of the disability, or until a successor has been
 4 appointed by the county commission. The acting county manager
 5 may not serve a term longer than 12 months. If, at the end of
 6 the 12-month period, the county commission has not hired a
 7 permanent county manager, the county commission ~~may~~ shall hire
 8 a new acting county manager. The new acting county manager may
 9 not previously have held the position of acting county manager
 10 in Jefferson County.

11 "Section 6. (a) For purposes of this ~~Act~~ act,
 12 "cause" includes any of the following reasons:

13 "(1) The county manager was at the time of his or
 14 her appointment or has since become ineligible to hold office
 15 ~~pursuant to this act~~ because the county manager failed to meet
 16 the minimum qualifications set forth under this act or set by
 17 the commission.

18 "(2) Malfeasance, misfeasance, or nonfeasance in
 19 office.

20 "(3) Conviction of a felony crime or of a
 21 misdemeanor involving moral turpitude.

22 "(4) Failure to perform his or her duties as
 23 provided by this act in an honorable, competent, and
 24 reasonably efficient manner.

1 "(5) He or she becomes morally, physically, or
2 mentally unfit to act in behalf of the county.

3 "(b) The county manager may only be removed by a
4 vote of no less than four-fifths of the county commissioners.
5 If the county manager is removed for cause, he or she shall
6 forfeit any further compensation.

7 "~~(c) The county manager may not be removed unless a
8 written statement of the reasons alleged for the proposed
9 removal and an opportunity for notice and a hearing at a
10 meeting of the county commission prior to the date on which
11 the proposed removal shall take effect is afforded. The
12 hearing shall take place within 30 days of the request.
13 Pending the hearing, the county commission may suspend the
14 county manager from office, with pay, provided that the period
15 of suspension shall not exceed 30 days.~~

16 "Section 7. A county manager hired pursuant to this
17 act shall be the chief ~~administrative~~ executive officer of
18 Jefferson County and, as such, shall ~~have~~ carry out the
19 ~~following~~ duties and responsibilities established by the
20 county commission, including the following:

21 "(1) To act as the primary administrative advisor to
22 the county commission on all matters relating to the efficient
23 and economical administration of county government.

24 "(2) To act as the executive agent of the county
25 commission in overseeing the implementation of authorized

1 projects and programs, assuring appropriate coordination of
2 departmental operations, and resolving interdepartmental
3 problems and disputes.

4 "(3) To serve as the appointing authority for and
5 exercise direct oversight of all department heads and their
6 agencies and departments including all county employees
7 thereof, except for (i) elected officials, (ii) non-merit
8 system employees, and (iii) the county attorney, who reports
9 directly to the county commission attorneys and their staff.
10 The county manager shall have the full authority to select,
11 appoint, evaluate, terminate, and retain department heads,
12 agency heads, and county employees for which the county
13 manager is the appointing authority, in consultation with the
14 whole commission, except that the selection or termination of
15 a department head ~~appointed~~ made by the county manager may be
16 vetoed by ~~three~~ four members of the commission at a meeting of
17 the county commission, provided that the veto is made within
18 ~~10~~ 30 business days following the county manager's selection
19 or termination decision, otherwise the county manager's
20 decision shall become final. Notwithstanding the foregoing,
21 the county commission, by a ~~unanimous~~ vote of ~~five~~ four
22 commissioners, may terminate the employment of a department
23 head.

24 "(4) To directly manage all county functions and
25 operations except those that are assigned to the county

1 attorneys or committed by general law to elected officers of
2 the county.

3 "(5) Conduct research and make studies and
4 investigation which could result in greater economy and
5 efficiency in county government; approve, on the basis of
6 management principles, such organizational changes as proposed
7 by departments; recommend to the county commission the
8 creation, dissolution, merger, or modification of
9 organizational elements or work programs as deemed necessary
10 for the efficient and economical operation of county
11 government; and recommend to the county commission policies
12 and adopt procedures for the orderly conduct of the county's
13 administrative affairs.

14 "(6) Cause the ~~budget~~ planning process for both the
15 operating and capital budgets to be compatible with approved
16 county policies and long range plans; review and evaluate the
17 budget estimates of all departments and submit a recommended
18 annual budget to the county commission in a timely manner;
19 exercise continuous review of revenues and expenditures
20 throughout the year to insure budgetary control and implement
21 any necessary fiscal controls; keep the ~~board of commissioners~~
22 county commission fully advised as to the financial condition
23 and needs of the county; and review and give a recommendation
24 as to all supplemental appropriations and budget transfers
25 which require county commission approval.

1 "(7) Conduct comprehensive management reviews and
2 analyses of programs, projects, and departments, and report
3 his or her findings and recommendations to the county
4 commission.

5 "(8) Subject to budget approval, organize, staff,
6 and administer and carry out the responsibilities of the
7 office of county manager. The county manager may hire a
8 non-merit system confidential secretary to assist the county
9 manager with administrative duties and responsibilities. In
10 addition, with the approval of a majority of the county
11 commission, the county manager may hire a maximum of two
12 at-will, non-merit system deputy county managers to assist the
13 county manager in the performance of his or her duties and
14 responsibilities under this act and an at-will, non-merit
15 system chief financial officer to assist the county manager
16 with the financial management of the county, all of whom shall
17 report to the county manager, who shall be their respective
18 appointing authority. The commission may, by resolution, set
19 forth additional duties and responsibilities for either the
20 deputy county managers or the chief financial officer. Any
21 position created by this subsection is authorized to
22 participate in any benefit plan offered to full-time county
23 employees.

24 "(9) Attend ~~all~~ meetings of the county commission
25 other than when he or she is absent due to illness, scheduled

1 vacation, or another legally permissible reason and discuss
 2 any matter before the commission, but shall not vote. During
 3 the temporary absence of the county manager, a deputy county
 4 manager, should one be appointed, shall attend all commission
 5 meetings in lieu of the county manager.

6 "(10) Supervise the performance of all contracts
 7 made by any person for work done for the county and supervise
 8 and regulate all purchases of materials and supplies for the
 9 county within the limitations and under the rules as may be
 10 imposed by the county commission, and to make purchases and
 11 contracts for the county in amounts not exceeding the formal
 12 sealed bid limit set by Alabama law or resolution of the
 13 county commission.

14 "(11) Perform such other duties as the county
 15 commission may direct and keep the county commission advised
 16 of any and all matters which may be pertinent to the discharge
 17 of its responsibilities.

18 "~~Section 8. (a) Except for department heads, the~~
 19 ~~county commission retains the right to employ and dismiss any~~
 20 ~~county employee within the departments that they have~~
 21 ~~responsibility for pursuant to the rules and regulations of~~
 22 ~~the Personnel Board of Jefferson County, any other provision~~
 23 ~~of this act to the contrary notwithstanding.~~

24 "~~(b)~~ The county commission, by a four-fifths vote,
 25 has the option to use the county Personnel Board or to

1 separately promulgate rules that conform to
2 anti-discrimination policies of the Jefferson County Personnel
3 Board or the Equal Employment Opportunity Commission, or both.

4 "Section 9. Any provision of law to the contrary
5 notwithstanding, the county commission shall make an offer to
6 a candidate for the county's initial county manager position
7 by June 1, 2011. Should the commission be unable to elect the
8 initial county manager with a four-fifth's vote or otherwise
9 be unable to hire one of the finalists as the initial county
10 manager, the county commission may request a new list of
11 finalists from the search firm it retained or may begin a new
12 search process by hiring another search firm that meets the
13 qualifications set forth in subsection (a) of Section 3.
14 Should the commission begin a new search process, the June 1,
15 2011, deadline to make an offer shall be extended by 120 days.

16 "Section ~~9~~ 10. All laws or parts of laws which
17 conflict with this act are repealed.

18 "Section ~~10~~ 11. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law."

21 Section 2. All laws or parts of laws which conflict
22 with this act are repealed, including, but not limited to,
23 Section 7 of Act 2009-812, 2009 First Special Session (Acts
24 2009, p. 2528).

1 Section 3. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

