

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

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Jefferson County; to reenact in amended
14 form Act 2009-662, enacted at the 2009 Regular Session of the
15 Legislature (Acts 2009, p. 2029), in order to provide further
16 for and to require the selection and employment of a county
17 manager as an at-will employee of the county who shall serve
18 at the pleasure of the county commission and not for a
19 specified term of office; to revise the ability of the county
20 commission to abolish the position of county manager; to
21 provide further for filling a vacancy in the office of county
22 manager; to provide further qualifications for candidates for
23 the position of county manager; to provide further for the
24 selection, salary, and benefits of the county manager; to
25 provide further for the removal of the county manager for
26 cause; to provide further for the duties of the office of
27 county manager; and to authorize the county manager to hire

1 and dismiss certain staff and employees of the county subject
2 in certain cases to the approval of and in consultation with
3 the commission; and to repeal Section 7 of Act 2009-812, 2009
4 Special Session (Acts 2009, p. 2528).

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Act 2009-662, 2009 Regular Session (Acts
7 2009, p. 2029), is amended to read as follows:

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

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

14 ~~"(b) The county commission may provide for an
15 advisory referendum of the qualified electors of the county
16 concerning whether the position of county manager should be
17 established.~~

18 ~~"(c) The county commission, upon a unanimous vote of
19 five commissioners, may abolish the position of county
20 manager. The county commission shall comply with Section 5
21 following a unanimous vote to abolish the position.~~

22 "Section 3. (a) ~~Upon a decision of at least
23 four-fifths of the county commission to hire a county manager,
24 At any time there is a vacancy in the office of county
25 manager, the county commission shall begin a national search
26 for a qualified county manager by retaining a national search
27 firm that specializes in the recruitment of either or both of~~

1 the following: (1) city and or county managers and city and
2 county department heads; (2) corporate or non-profit
3 executives. The hiring of a county manager shall conform with
4 the anti-discrimination policies of the Jefferson County
5 Personnel Board and the Equal Employment Opportunity
6 Commission.

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

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

19 "Section 4. (a) The county commission shall
20 establish the qualifications of the county manager. The
21 Jefferson County Personnel Board, at the direction of the
22 county commission, may assist in establishing the
23 qualifications. Notwithstanding the foregoing, the county
24 manager shall possess a Master's Degree in Public
25 Administration, a Master's Degree in Business Administration,
26 or a Juris Doctorate degree from an accredited United States
27 college or university or, in the alternative, a minimum of 10

1 years aggregate experience as the chief operating officer or
2 chief executive officer of a public or private organization.

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

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

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

13 "(d) The county manager, before entering the
14 discharge of his or her duties, shall execute a nonrecourse
15 bond with a solvent surety company licensed to do business in
16 the county in an amount to be approved by the county
17 commissioners, but no less than fifty thousand dollars
18 (\$50,000) payable to the county, conditioned on the faithful
19 performance of his or her duties. The bond shall be secure
20 against corruption, malfeasance, misappropriation, or unlawful
21 expenditures. The cost of the bond shall be paid by the
22 county. The bond shall be delivered to the county commission
23 within five days of the county manager's assuming his or her
24 duties and, upon receipt, shall be filed by the commission
25 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
26 county manager as set forth in this act. The acting county
27 manager shall serve until the end of the temporary absence,

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

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

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

16 "(2) Malfeasance, misfeasance, or nonfeasance in
17 office.

18 "(3) Conviction of a felony crime or of a
19 misdemeanor involving moral turpitude.

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

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

25 "(b) The county manager may only be removed by a
26 vote of no less than four-fifths of the county commissioners.

1 If the county manager is removed for cause, he or she shall
2 forfeit any further compensation.

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

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

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

20 "(2) To act as the executive agent of the county
21 commission in overseeing the implementation of authorized
22 projects and programs, assuring appropriate coordination of
23 departmental operations, and resolving interdepartmental
24 problems and disputes.

25 "(3) To serve as the appointing authority for and
26 exercise direct oversight of all department heads and their
27 agencies and departments including all county employees

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

18 "(4) To directly manage all county functions and
19 operations except those that are assigned to the county
20 attorneys or committed by general law to elected officers of
21 the county.

22 "(5) Conduct research and make studies and
23 investigation which could result in greater economy and
24 efficiency in county government; approve, on the basis of
25 management principles, such organizational changes as proposed
26 by departments; recommend to the county commission the
27 creation, dissolution, merger, or modification of

1 organizational elements or work programs as deemed necessary
2 for the efficient and economical operation of county
3 government; and recommend to the county commission policies
4 and adopt procedures for the orderly conduct of the county's
5 administrative affairs.

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

18 "(7) Conduct comprehensive management reviews and
19 analyses of programs, projects, and departments, and report
20 his or her findings and recommendations to the county
21 commission.

22 "(8) Subject to budget approval, organize, staff,
23 and administer and carry out the responsibilities of the
24 office of county manager. The county manager may hire a
25 non-merit system confidential secretary to assist the county
26 manager with administrative duties and responsibilities. In
27 addition, with the approval of a majority of the county

1 commission, the county manager may hire a maximum of two
2 at-will, non-merit system deputy county managers to assist the
3 county manager in the performance of his or her duties and
4 responsibilities under this act and an at-will, non-merit
5 system chief financial officer to assist the county manager
6 with the financial management of the county, all of whom shall
7 report to the county manager, who shall be their respective
8 appointing authority. The commission may, by resolution, set
9 forth additional duties and responsibilities for either the
10 deputy county managers or the chief financial officer. Any
11 position created by this subsection is authorized to
12 participate in any benefit plan offered to full-time county
13 employees.

14 "(9) Attend ~~all~~ meetings of the county commission
15 other than when he or she is absent due to illness, scheduled
16 vacation, or another legally permissible reason and discuss
17 any matter before the commission, but shall not vote. During
18 the temporary absence of the county manager, a deputy county
19 manager, should one be appointed, shall attend all commission
20 meetings in lieu of the county manager.

21 "(10) Supervise the performance of all contracts
22 made by any person for work done for the county and supervise
23 and regulate all purchases of materials and supplies for the
24 county within the limitations and under the rules as may be
25 imposed by the county commission, and to make purchases and
26 contracts for the county in amounts not exceeding the formal

1 sealed bid limit set by Alabama law or resolution of the
2 county commission.

3 "(11) Perform such other duties as the county
4 commission may direct and keep the county commission advised
5 of any and all matters which may be pertinent to the discharge
6 of its responsibilities.

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

13 "~~(b)~~ The county commission, by a four-fifths vote,
14 has the option to use the county Personnel Board or to
15 separately promulgate rules that conform to
16 anti-discrimination policies of the Jefferson County Personnel
17 Board or the Equal Employment Opportunity Commission, or both.

18 "Section 9. Any provision of law to the contrary
19 notwithstanding, the county commission shall make an offer to
20 a candidate for the county's initial county manager position
21 by June 1, 2011. Should the commission be unable to elect the
22 initial county manager with a four-fifth's vote or otherwise
23 be unable to hire one of the finalists as the initial county
24 manager, the county commission may request a new list of
25 finalists from the search firm it retained or may begin a new
26 search process by hiring another search firm that meets the
27 qualifications set forth in subsection (a) of Section 3.

1 Should the commission begin a new search process, the June 1,
2 2011, deadline to make an offer shall be extended by 120 days.

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

5
6 "Section ~~10~~ 11. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law."

9 Section 2. All laws or parts of laws which conflict
10 with this act are repealed, including, but not limited to,
11 Section 7 of Act 2009-812, 2009 First Special Session (Acts
12 2009, p. 2528).

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