HB159

125771-2

By Representative DeMarco (N & P)

RFD: Jefferson County Legislation

First Read: 03-MAR-11
A BILL

TO BE ENTITLED

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

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:

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

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

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

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

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

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

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

"Section 4. (a) The county commission shall establish the qualifications of the county manager. The Jefferson County Personnel Board, at the direction of the county commission, may assist in establishing the qualifications. Notwithstanding the foregoing, the county manager shall possess a Master's Degree in Public Administration, a Master's Degree in Business Administration, or a Juris Doctorate degree from an accredited United States college or university or, in the alternative, a minimum of 10
years aggregate experience as the chief operating officer or chief executive officer of a public or private organization.
The position of county manager shall be full-time in the service of Jefferson County.

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

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

"(d) The county manager, before entering the discharge of his or her duties, shall execute a nonrecourse bond with a solvent surety company licensed to do business in the county in an amount to be approved by the county commissioners, but no less than fifty thousand dollars ($50,000) payable to the county, conditioned on the faithful performance of his or her duties. The bond shall be secure against corruption, malfeasance, misappropriation, or unlawful expenditures. The cost of the bond shall be paid by the county. The bond shall be delivered to the county commission within five days of the county manager's assuming his or her duties and, upon receipt, shall be filed by the commission clerk with the Probate Court of Jefferson County.
"(e) The county commission may pay travel expenses related to the recruitment of a county manager and to pay relocation expenses.

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

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

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

"(c) In the case of vacancy, temporary absence, or disability in the office of the county manager, the county commission by a four-fifths vote may shall appoint an acting county manager, who shall meet the qualifications of the county manager be a non-merit system employee entitled to the same expense reimbursements and employment benefits as a county manager as set forth in this act. The acting county manager shall serve until the end of the temporary absence,
removal of the disability, or until a successor has been appointed by the county commission. The acting county manager may not serve a term longer than 12 months. If, at the end of the 12-month period, the county commission has not hired a permanent county manager, the county commission **may** hire a new acting county manager. The new acting county manager may not previously have held the position of acting county manager in Jefferson County.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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