

HB 1589

2007

1 A bill to be entitled

2 An act relating to the Indian River County urban service
3 boundary; providing definitions; authorizing the Board of
4 County Commissioners of Indian River County to exercise
5 exclusive authority regarding the adoption of
6 comprehensive plans provided in part II of chapter 163,
7 Florida Statutes, for those areas in Indian River County
8 outside the urban service boundary area; establishing the
9 urban service boundary area; limiting the circumstances
10 under which the urban service boundary area may be
11 modified; providing for a transfer of power; requiring a
12 referendum subject to an extraordinary vote; providing a
13 ballot statement; providing an effective date.

14
15 WHEREAS, Indian River County is a noncharter county
16 operating under Section 1(f), Article VIII of the State
17 Constitution with the power of self-government as is provided by
18 general or special law, and

19 WHEREAS, under Section 1(f), Article VIII of the State
20 Constitution, an ordinance by Indian River County that is in
21 conflict with a municipal ordinance shall not be effective
22 within the municipality to the extent of such conflict, unless
23 there is no municipal purpose for the municipal ordinance, and

24 WHEREAS, the power of the municipalities within Indian
25 River County is provided in Section 2(b), Article VIII of the
26 State Constitution to include "governmental, corporate and
27 proprietary powers to enable them to conduct municipal
28 government, perform municipal functions and render municipal

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | services," and the municipalities "may exercise any power for
30 | municipal purposes except as otherwise provided by law," and

31 | WHEREAS, Section 2(c), Article VIII of the State
32 | Constitution authorizes the Legislature by general law or
33 | special act to provide for municipal annexation of
34 | unincorporated territory and for the extraterritorial power of
35 | municipalities, and

36 | WHEREAS, Section 4, Article VIII of the State Constitution
37 | authorizes the Legislature by law to determine whether and under
38 | what circumstances a transfer of power among local governments
39 | may occur, and

40 | WHEREAS, part II of chapter 163, Florida Statutes, provides
41 | authority for the municipalities within Indian River County to
42 | exercise comprehensive land use and zoning power for property
43 | within the geographic limits of the municipality, and

44 | WHEREAS, part II of chapter 163, Florida Statutes, provides
45 | authority for the Board of County Commissioners of Indian River
46 | County to exercise comprehensive land use and zoning power for
47 | property within the unincorporated area of the county, and

48 | WHEREAS, section 171.062, Florida Statutes, provides that
49 | if an area annexed by a municipality was subject to a county
50 | land use plan and county zoning and subdivision regulations, the
51 | county regulations remain in effect until the municipality
52 | adopts a comprehensive plan amendment that includes the annexed
53 | area, and

54 | WHEREAS, the Indian River County comprehensive land use
55 | plan adopted pursuant to part II of chapter 163, Florida
56 | Statutes, establishes an urban service boundary area, outside of

57 | which consists of area within the unincorporated area of the
 58 | county, and

59 | WHEREAS, on November 7, 2006, the voters of Indian River
 60 | County approved allowing the Board of County Commissioners of
 61 | Indian River County to have exclusive authority and power to
 62 | adopt a comprehensive plan within the entire area of Indian
 63 | River County outside of the urban service boundary area,
 64 | including both unincorporated areas and the incorporated areas,
 65 | NOW, THEREFORE,

66 |
 67 | Be It Enacted by the Legislature of the State of Florida:

68 |
 69 | Section 1. Definitions.--As used in this act, the
 70 | following terms shall have the following meanings:

71 | (1) "Board of county commissioners" means the governing
 72 | body of Indian River County.

73 | (2) "County" means Indian River County.

74 | (3) "Municipality" means any or all of the several
 75 | municipalities within the county.

76 | (4) "Qualified elector" means a person who is registered
 77 | to vote in a general election held in Indian River County.

78 | (5) "Urban service boundary area" means the geographical
 79 | area established by this act, and altered as provided in this
 80 | act, which consists of property within the unincorporated area
 81 | and may in the future include property within one or more
 82 | municipalities.

83 | Section 2. Establishment of the urban service boundary
 84 | area.--There is hereby established an urban service boundary

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85 area consisting of property within the boundary described in the
86 Indian River County comprehensive land use plan.

87 Section 3. Preemption of land use power to the
88 county.--Notwithstanding section 163.3171(1) and (2), Florida
89 Statutes, and other provisions of general law, the Legislature
90 hereby preempts to the board of county commissioners the
91 exclusive authority under part II of chapter 163, Florida
92 Statutes, over the total area outside the urban service boundary
93 area. In the event of annexation of any land outside the urban
94 service boundary area by a municipality subsequent to the
95 effective date of this act, the land development regulations as
96 defined in section 163.3164(23), Florida Statutes, adopted and
97 implemented for such annexed area by the municipality having
98 jurisdiction shall be subject to and consistent with, or must be
99 amended to be subject to and consistent with, the comprehensive
100 plan adopted by the board of county commissioners for land
101 outside the urban service boundary area pursuant to the
102 requirements of sections 163.3177 and 163.31777, Florida
103 Statutes.

104 Section 4. Urban service boundary area modification.--The
105 borders of the urban service boundary area may be modified only
106 by the board of county commissioners and only upon approval of a
107 majority of those qualified electors of the county voting in a
108 referendum called for that purpose by the board of county
109 commissioners to be held in accordance with the provisions of
110 law relating to elections then in force. For purposes of this
111 section, the board of county commissioners shall be deemed to
112 have modified the borders of the urban service boundary area and

113 electorate approval shall therefore be required, only if the
 114 board of county commissioners should take any action to permit
 115 any housing development outside the urban service boundary area
 116 with a density higher than the maximum density allowed pursuant
 117 to the county's adopted comprehensive plan in effect on the
 118 effective date of this act.

119 Section 5. Transfer of power.--This act is an alternative
 120 provision otherwise provided by law as authorized in Section 4,
 121 Article VIII of the State Constitution for any transfer of power
 122 to the county from any municipality within the county, and no
 123 referendum shall be required except as expressly provided in
 124 this act.

125 Section 6. Referendum.--In conjunction with the next
 126 countywide general election, and in accordance with the general
 127 laws governing elections, the Supervisor of Elections of Indian
 128 River County shall conduct a referendum of qualified electors of
 129 the county for the purpose of posing the following question:

130
 131 Shall legislation be enacted to: establish an urban service
 132 boundary area in Indian River County; transfer comprehensive
 133 land use and zoning power to Indian River County from any
 134 affected municipality for property outside the urban service
 135 boundary area; and require referendum approval of any future
 136 modification to the urban service boundary area by the board of
 137 county commissioners?

138 Yes

139 No

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140 Section 7. This act shall take effect only upon its
141 approval by 60 percent of those qualified electors of the county
142 voting in a referendum held in accordance with section 6, except
143 that this section and section 6 shall take effect upon becoming
144 a law.