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By: **Delegates Leopold and Rosenberg**  
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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
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CHAPTER 415

1 AN ACT concerning

2 **Smart Growth - Priority Funding Areas - Designation by Two or More**  
3 **Counties**

4 FOR the purpose of authorizing the governing bodies of two or more counties to  
5 designate a priority funding area under ~~the State Smart Growth law~~ State  
6 smart growth laws that is made up of contiguous areas located in each of the  
7 designating counties; requiring the ~~State Economic Growth, Resource~~  
8 ~~Protection, and Planning Commission~~ Department of Planning to develop and  
9 adopt regulations on or before a certain date to govern the designation of a  
10 priority funding area under this Act; requiring that the designating county  
11 governments comply with certain certification requirements relating to ~~Smart~~  
12 ~~Growth~~ smart growth; requiring that the Department ~~of Planning~~  
13 designated under this Act within a certain map; requiring certain certification  
14 by the county governments; ~~authorizing a State funding agency to give priority~~  
15 ~~consideration to funding a project in a priority funding area designated by two~~  
16 ~~or more county governments~~; and generally relating to priority funding areas  
17 designated by two or more county governments under ~~the Smart Growth law~~  
18 State smart growth laws.

19 BY repealing and reenacting, with amendments,  
20 Article - State Finance and Procurement  
21 Section 5-7B-03 and 5-7B-08  
22 Annotated Code of Maryland  
23 (2001 Replacement Volume and 2002 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - State Finance and Procurement**

2 5-7B-03.

3 (a) (1) The governing body of a county may designate priority funding areas  
4 as provided in this section.5 (2) THE GOVERNING BODIES OF TWO OR MORE COUNTIES MAY  
6 DESIGNATE, AS PROVIDED IN THIS SECTION AND IN ACCORDANCE WITH THE  
7 REGULATIONS ADOPTED BY THE DEPARTMENT OF PLANNING, A PRIORITY FUNDING  
8 AREA THAT COMBINES TWO OR MORE CONTIGUOUS AREAS LOCATED IN EACH OF  
9 THE COUNTIES.10 (b) (1) An area zoned or, if applicable, classified by January 1, 1997  
11 principally for industrial use may be designated as a priority funding area.12 (2) An area zoned or, if applicable, classified after January 1, 1997, as  
13 industrial may be designated as a priority funding area if the area is served by a  
14 public or community sewer system.15 (c) (1) An area where the principal uses of the area are for employment may  
16 be designated as a priority funding area if:

17 (i) the area is served by public or community sewer systems; or

18 (ii) public or community sewer systems are planned in the approved  
19 10-year water and sewer plan.20 (2) An area zoned or, if applicable, classified after January 1, 1997 as  
21 industrial, or where the principal uses are for employment, in addition to meeting the  
22 criteria set forth in paragraph (1) of this subsection, shall be located within a locally  
23 designated growth area.24 (d) (1) A community in existence prior to January 1, 1997 that is within a  
25 locally designated growth area may be designated as a priority funding area if the  
26 community:27 (i) is served by a public or community sewer system and in that  
28 part of the community designated by the local government for residential use or  
29 development:

30 1. there is an average density of at least 2.0 units per acre; or

31 2. if a portion of the community is undeveloped, the  
32 permitted average density is not less than 2.0 units per acre; or33 (ii) except as provided in paragraph (2) of this subsection, is served  
34 by a public or community water system and in that part of the community designated  
35 by the local government for residential use or development there is an average  
36 density of at least 2.0 units per acre.

1                   (2)    (i)       The provisions of paragraph (1)(ii) of this subsection do not  
2 apply to mobile home parks or communities with less than 10 units.

3                   (ii)       Funding for a growth-related project under paragraph (1)(ii) of  
4 this subsection is to be provided only if the project serves to maintain the character of  
5 the community and does not serve to increase the growth capacity of the community  
6 except for limited peripheral or in-fill development.

7                   (3)    (i)       If an existing community receives a public or community sewer  
8 system, an area beyond the periphery of the developed portion of the existing  
9 community may be designated as a priority funding area if the development of the  
10 area beyond the periphery:

11                                   1.       has a permitted average density of at least 3.5 units per  
12 acre; and

13                                   2.       the area is served by a public or community sewer system.

14                   (ii)       The Department of the Environment may provide funding for a  
15 sewer system in an existing community beyond the periphery of the developed portion  
16 of the community if the expansion has a permitted average density of at least 3.5  
17 units per acre.

18   (e)       An area, other than an existing community under subsection (d) of this  
19 section, may be designated as a priority funding area if:

20                   (1)       the area:

21                                   (i)       is within a locally designated growth area of the county; and

22                                   (ii)      is planned to be served under the approved 10-year water and  
23 sewer plan;

24                   (2)       the designation represents a long-term development policy for  
25 promoting an orderly expansion of growth and an efficient use of land and public  
26 services; and

27                   (3)       in that part of the area designated by the local government for  
28 residential use or development, there is permitted an average density of not less than  
29 3.5 units per acre.

30   (f)       (1)       A rural village may be designated as a priority funding area under  
31 this section if:

32                                   (i)       the village is designated in the county comprehensive plan as of  
33 July 1, 1998; and

34                                   (ii)      the boundary of the priority funding area is the periphery of the  
35 developed portion of the village as of July 1, 1998.

1 (2) Funding for a growth-related project under this subtitle is to be  
2 provided only if the project serves to maintain the character of the community and  
3 does not serve to increase the growth capacity of the village except for limited  
4 peripheral or in-fill development.

5 (g) The designation by a county OR COUNTIES of a priority funding area under  
6 this section shall be based on:

7 (1) an analysis of the capacity of land areas available for development,  
8 including in-fill and redevelopment; and

9 (2) an analysis of the land area needed to satisfy demand for  
10 development at densities consistent with the master plan.

11 (h) For the purposes of this section, average density shall be calculated based  
12 on the total acreage of all parcels in the area for which the principal permitted use is  
13 residential, excluding land:

14 (1) (i) dedicated for public use by easement in perpetuity or fee  
15 acquisition; or

16 (ii) dedicated recreational use;

17 (2) subject to an agricultural easement under § 2-508 of the Agriculture  
18 Article;

19 (3) subject to an agricultural easement under a county agricultural land  
20 preservation program certified under § 5-408 of this title;

21 (4) used for cemetery purposes;

22 (5) identified by a local government as:

23 (i) 1. streams and their buffers;

24 2. 100-year flood plains;

25 3. habitats of threatened and endangered species; and

26 4. steep slopes; and

27 (ii) on which development is prohibited by local law or ordinance; or

28 (6) identified by a local government as delineated nontidal wetlands on  
29 which development is prohibited by State or local law or ordinance.

30 5-7B-08.

31 (a) To be eligible for funding for growth-related projects, a local government  
32 OR TWO OR MORE COUNTY GOVERNMENTS shall certify to the Department of  
33 Planning any area designated by the local government OR COUNTY GOVERNMENTS as

1 a priority funding area under § 5-7B-03 of this subtitle, which shall be consistent  
2 with the local comprehensive plan and the criteria set forth in § 5-7B-03 of this  
3 subtitle.

4 (b) Prior to certification of a priority funding area or areas, the local  
5 government OR COUNTY GOVERNMENTS may submit the proposed priority funding  
6 areas and any relevant information to the Department of Planning for:

7 (1) technical assistance, review, and comment; and

8 (2) the opportunity for public review.

9 (c) Upon certification of a priority funding area, the local government OR  
10 COUNTY GOVERNMENTS shall provide to the Department of Planning all information  
11 necessary to demonstrate the precise location of the area, including a map of the area  
12 showing planning and zoning characteristics, and existing and planned water and  
13 sewer services as appropriate.

14 (d) The Department of Planning, as appropriate, shall provide to each State  
15 agency that funds growth-related projects copies of maps illustrating:

16 (1) priority funding areas certified by the local government OR COUNTY  
17 GOVERNMENTS; and

18 (2) any comments by the Department of Planning on the areas certified.

19 (e) Prior to funding a growth-related project, the State funding agency shall  
20 obtain from the affected local government OR COUNTY GOVERNMENTS a written  
21 statement that the proposed growth-related project is located within a certified  
22 priority funding area.

23 ~~(F) A STATE FUNDING AGENCY MAY GIVE PRIORITY CONSIDERATION TO~~  
24 ~~FUNDING A PROJECT IN A PRIORITY FUNDING AREA DESIGNATED BY TWO OR MORE~~  
25 ~~COUNTY GOVERNMENTS UNDER § 5-7B-03(A)(2) OF THIS SUBTITLE.~~

26 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before June 1,  
27 2004, the ~~State Economic Growth, Resource Protection, and Planning Commission~~  
28 Department of Planning shall develop and adopt regulations governing the  
29 designation of a priority funding area by the governing bodies of two or more counties  
30 as provided under this Act.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
32 effect October 1, 2003.

