
By: **Delegates Leopold and Rosenberg**
Introduced and read first time: January 30, 2003
Assigned to: Environmental Matters

A BILL ENTITLED

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

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

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

25 **Article - State Finance and Procurement**

26 5-7B-03.

27 (a) (1) The governing body of a county may designate priority funding areas
28 as provided in this section.

1 (2) THE GOVERNING BODIES OF TWO OR MORE COUNTIES MAY
2 DESIGNATE A PRIORITY FUNDING AREA THAT COMBINES TWO OR MORE
3 CONTIGUOUS AREAS LOCATED IN EACH OF THE COUNTIES.

4 (b) (1) An area zoned or, if applicable, classified by January 1, 1997
5 principally for industrial use may be designated as a priority funding area.

6 (2) An area zoned or, if applicable, classified after January 1, 1997, as
7 industrial may be designated as a priority funding area if the area is served by a
8 public or community sewer system.

9 (c) (1) An area where the principal uses of the area are for employment may
10 be designated as a priority funding area if:

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

12 (ii) public or community sewer systems are planned in the approved
13 10-year water and sewer plan.

14 (2) An area zoned or, if applicable, classified after January 1, 1997 as
15 industrial, or where the principal uses are for employment, in addition to meeting the
16 criteria set forth in paragraph (1) of this subsection, shall be located within a locally
17 designated growth area.

18 (d) (1) A community in existence prior to January 1, 1997 that is within a
19 locally designated growth area may be designated as a priority funding area if the
20 community:

21 (i) is served by a public or community sewer system and in that
22 part of the community designated by the local government for residential use or
23 development:

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

25 2. if a portion of the community is undeveloped, the
26 permitted average density is not less than 2.0 units per acre; or

27 (ii) except as provided in paragraph (2) of this subsection, is served
28 by a public or community water system and in that part of the community designated
29 by the local government for residential use or development there is an average
30 density of at least 2.0 units per acre.

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

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

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

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

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

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

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

14 (1) the area:

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

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

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

21 (3) in that part of the area designated by the local government for
22 residential use or development, there is permitted an average density of not less than
23 3.5 units per acre.

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

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

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

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

34 (g) The designation by a county of a priority funding area under this section
35 shall be based on:

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

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

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

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

10 (ii) dedicated recreational use;

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

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

15 (4) used for cemetery purposes;

16 (5) identified by a local government as:

17 (i) 1. streams and their buffers;

18 2. 100-year flood plains;

19 3. habitats of threatened and endangered species; and

20 4. steep slopes; and

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

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

24 5-7B-08.

25 (a) To be eligible for funding for growth-related projects, a local government
26 OR TWO OR MORE COUNTY GOVERNMENTS shall certify to the Department of
27 Planning any area designated by the local government OR COUNTY GOVERNMENTS as
28 a priority funding area under § 5-7B-03 of this subtitle, which shall be consistent
29 with the local comprehensive plan and the criteria set forth in § 5-7B-03 of this
30 subtitle.

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

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

2 (2) the opportunity for public review.

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

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

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

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

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before June 1,
21 2004, the State Economic Growth, Resource Protection, and Planning Commission
22 shall develop and adopt regulations governing the designation of a priority funding
23 area by the governing bodies of two or more counties as provided under this Act.

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