

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 52 (Chairman, Education, Health, and Environmental Affairs Committee)  
(By Request – Departmental – Planning)

Education, Health, and Environmental Affairs

Environmental Matters

---

**Priority Funding Areas - Funding of Sewerage and Water Supply Systems**

---

This departmental bill amends the Smart Growth Areas Act of 1997 to allow the State, without approval from the Board of Public Works, to provide funding for water supply and sewerage projects located outside a priority funding area (PFA) because of operational characteristics or environmental regulations. For the exception to apply, the Maryland Department of Planning (MDP) must make a determination that the associated service area is a PFA.

---

**Fiscal Summary**

**State Effect:** Minimal or none. The bill largely codifies current practice.

**Local Effect:** Minimal or none.

**Small Business Effect:** MDP has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

---

**Analysis**

**Current Law:** The Smart Growth Areas Act of 1997 prohibits the State from providing funding for any growth-related project not located within a PFA. The law allows for certain exceptions in which the State may provide funding for a growth-related project not located within a PFA without receiving approval from the Board of Public Works, such as a natural resource-based industry that, by its nature, needs to be located away from other development.

MDE manages several grant and loan programs subject to the Smart Growth Areas Act. Among other programs, the Maryland Water Quality Financing Administration (WQFA) within MDE encourages capital investment for wastewater and drinking water projects pursuant to the federal Clean Water Act and the federal Safe Drinking Water Act. WQFA administers two loan funds: (1) the Water Quality Revolving Loan Fund, which was established in 1988 to provide low-interest loans for wastewater projects; and (2) the Drinking Water Revolving Loan Fund, which was established in 1993 to provide low-interest loans for drinking water projects.

**Background:** The Smart Growth Areas Act of 1997, with certain exceptions, limited State funding of growth-related projects to projects located within PFAs. One of the underlying criteria for certification of a PFA is that the area must have existing or planned water and sewerage service as defined in the county water and sewerage plan. In addition, State law requires that county water and sewerage plans be consistent with local comprehensive plans. MDP advises that, while certain exceptions to the funding prohibition were made when the Smart Growth Areas Act was enacted, one issue that was not foreseen was the complexity of the relationship between water and sewerage facilities and land use planning. Some water and sewerage facilities are located beyond PFAs even though their growth-related service areas are entirely within PFAs. Recently, the State has been concerned with the possible legal ramifications of providing funding to such facilities. This bill is intended to clarify the intent of the original Smart Growth law by establishing a clear guideline within the exception process to govern when funding can be provided for such projects.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Planning, Maryland Department of the Environment, Board of Public Works, Department of Legislative Services

**Fiscal Note History:** First Reader - January 15, 2004  
mh/ljm Revised - Senate Third Reader - March 24, 2004

---

Analysis by: Lesley Cook

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

