

To: Chair Young Hawj, Vice Chair Jennifer McEwen, Ranking Minority Member Justin Eichorn
Members of the Committee:

From: John Goetz, President, Smart Growth Minneapolis

Date: March 3, 2024

RE: Smart Growth Minneapolis Opposition to SF 4183

Thank you for the opportunity to provide information regarding SF 4183. [Smart Growth Minneapolis \(SGM\)](#) is a Minnesota non-profit organization with the goal of improving the Minneapolis 2040 Plan through environmental review. SGM opposes SF 4183 because it guts the protections of the majority of the citizens of Minnesota under the Minnesota Environmental Rights Act (MERA) and because it is simply a means to bail out the City of Minneapolis from the court-ordered environmental review of its 2040 Plan.

SF 4183 Weakens MERA Protections for More Than Half of All Minnesotans

For 53 years, because of MERA, courts have been able to evaluate whether governmental actions will cause environmental harm and whether it is necessary to compel environmental review. SF 4183 ends that process by exempting metro residential density from environmental review under MERA. New subparagraph (d) states: “(d) The adoption or amendment of any provision that authorizes increased residential density in a comprehensive plan, fiscal device, or official control that is approved by the Metropolitan Council or that is determined by a municipality to result in environmental and public health benefits does not constitute conduct that causes or is likely to cause pollution, impairment, or destruction, as defined under section 116B.02, subdivision 5.”

SF 4183 gives a free pass to metro-area municipal governments, as long as they simply say that they are benefiting the environment. By eviscerating MERA’s application to residential density, SF 4183 runs contrary to the MERA’s remedial purpose and harms Minnesota residents.

SF 4183 Eliminates Government Accountability

Without the protections of MERA, there is no check on government actions that are likely to cause cumulative harm to the environment. Even individual projects must consist of 1,500 attached or 1,000 unattached units to trigger an environmental impact statement (EIS), which captures very few projects, and nothing triggers review of likely effects of cumulative development.

Before the Minneapolis 2040 Plan was adopted in 2019, the city’s civil engineer advised the city to do an environmental review of the plan but the city said no. This same civil engineer advised the City of Moorhead to do a review in 2018 for its [three 2040 Area Growth Plans](#), which Moorhead did carry out.

The [City of Seattle also conducts an EIS](#) of its comprehensive plans. According to Seattle long range planning manager Michael Hubner, “[T]he process helps the city mitigate the potential problems of growth, including clogged roads, tree loss and displacement of the less privileged.” [Susan Du, Star Tribune, February 18, 2024.](#)

SF 4183 Provides a Bailout for the City of Minneapolis

MERA is serving its intended purpose: the courts have instructed the City of Minneapolis to conduct an environmental review in order to lift an injunction of its 2040 Plan after SGM presented evidence of likely cumulative harms. The city has refused. The 2040 Plan allows intensified use/upzoning of nearly 50% of the land in the city—the “low-density residential” portions of the city. Under SF 4183, no environmental analysis would be required for this massive upzoning, meaning that none of this land would have protection under MERA. SF 4183 provides a permanent end run around this court-ordered requirement that affects not only Minneapolis, but more than half of the people of Minnesota.

SF 4183 Undermines the Minnesota Courts and Is an Extreme Overreach

After failing to convince the City of Minneapolis to conduct an environmental analysis of its 2040 Plan, SGM sued to compel review under MERA in December 2018. Since then, the courts have consistently held that MERA applies to the 2040 Plan. However, SF 4183 makes the residential density exemption retroactive to March 2018, before SGM filed its lawsuit, thus eradicating six years of successful litigation.

SF 4183 is an extreme overreach aimed solely at obliterating these court decisions, including the landmark Minnesota Supreme Court decision in *State by Smart Growth Minneapolis v. City of Minneapolis*, 954 N.W.2d 584 (Minn. 2021), which ruled, by unanimous decision, that MERA applies to comprehensive plans.

MERA's Purpose

Enacted in 1971, MERA is Minnesota's first bedrock environmental law. Sec. 116B.02, subd. 5 states, “The legislature finds and declares that each person is entitled by right to the protection, preservation, and enhancement of air, water, land, and other natural resources located within the state and that each person has the responsibility to contribute to the protection, preservation, and enhancement thereof ... *Accordingly, it is in the public interest to provide an adequate civil remedy* to protect air, water, land and other natural resources located within the state from pollution, impairment, or destruction.” Minn. Stat. §§ 116B.01-.13 (1971)

SF 4183 is in complete contradiction to the Declaration of State Environmental Policy set forth in the 1973 Minnesota Environmental Policy Act: “The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, *particularly the profound influences of population growth [and] high density urbanization* ... and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of human beings, declares that it is the continuing policy of the state government ... to create and maintain conditions under which human beings and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state's people.”